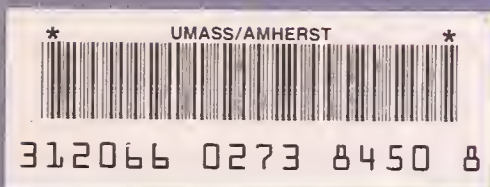


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A Review of Operational Policies and Procedures
of the Massachusetts Civil Service System

The Special Commission on Civil Service Reform

May 1980

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A REVIEW OF OPERATIONAL POLICIES AND PROCEDURES
OF THE MASSACHUSETTS CIVIL SERVICE SYSTEM

THE SPECIAL COMMISSION ON CIVIL SERVICE REFORM

MAY 1980

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Senator Samuel Rotondi, Senate Chairman
Representative Nicholas Buglione, House Chairman
Special Commission on Civil Service Reform
State House
Boston, Massachusetts 02133

Gentlemen:

We have completed our analysis of the practices and procedures employed for the administration of the Massachusetts Civil Service system for the Special Commission on Civil Service Reform. Our findings and recommendations for legislative and operational changes are presented in the following report.

The Special Commission was established as a result of continuing criticism and controversy that the Massachusetts Civil Service system does not meet the personnel requirements of large, complex government. The Special Commission on Civil Service Reform recognized that an independent review of Civil Service methods would be essential to achieve a greater understanding of the system and to identify preferred practices employed by the federal and other states' systems that might be appropriate for adoption in Massachusetts.

Our study included an analysis of present policies, operating procedures, reporting relationships, and systems, manual and automated, pertaining to the Massachusetts Civil Service. We reviewed the general operating practices and procedures employed by the Division of Personnel Administration (DPA), the state entity charged with the administration of Civil Service and other state personnel functions, but we did not perform tests of either financial or administrative transactions. We examined existing statutes and written operational instructions; examined documents pertaining to previous studies of Civil Service and publications concerning personnel administration; reviewed policies, decisions, and rules pertaining to Civil Service administration; studied notes and transcripts from hearings held by the Special Commission; inspected sample reports and documents; prepared questionnaires to municipalities as to their personnel practices; surveyed other state merit systems; reviewed responses to questionnaires and interviewed state and local officials and representatives of various associations and interest groups.



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Our study concentrates on the management issues involved in effective administration of Civil Service in Massachusetts. While we reference prior studies of Massachusetts Civil Service, our purpose is not merely to restate or critique them. We present recommendations for further action which will be the subject of considerable discussion and modification before final adoption. Until the detailed design of the resulting system is established, it would be inappropriate for us to speculate on likely implementation costs. Similarly, although reference to the law is important for understanding these complex matters, our study is not a legal opinion nor an attempt to draft legislation.

Our detailed findings and recommendations are presented in sections of our report organized to correspond to major issues of concern identified by the Special Commission. The fundamental management deficiencies associated with Civil Service operations noted during our engagement and a summary of the steps suggested to improve operating effectiveness are outlined below.

FINDINGS

- The Civil Service statute, Chapter 31, has been amended frequently, thereby complicating its administration and diluting the sense of "merit." Other statutes, particularly Chapters 41 and 150E, decisions of the Massachusetts Commission Against Discrimination, and various federal court consent decrees have created a complex body of administrative law pertaining to Civil Service.
- The roles of the Civil Service Commission and DPA are not adequately defined, resulting in an overlap of functions such as involving the Commission in a myriad of procedural and administrative issues thus inhibiting the Commonwealth's ability to employ an effective approach to personnel management. The organizational structure to effectively manage the public personnel function is not in place.
- The accepted requirement that management present a "preponderance of evidence" to the Civil Service Commission in employee disciplinary cases restricts the exercise of reasonable management prerogatives.
- Responsibility for important state personnel-related functions is divided among several governmental entities without adequate central direction and coordination. The State Retirement Board which administers the retirement law under the Treasurer's Office, Office of Employee Relations (collective bargaining) and State Group Insurance Commission are among those with such responsibility.

- Massachusetts state and local government is a multi-billion dollar enterprise, primarily personnel driven. However, there are inadequate personnel management systems and procedures to effectively manage public personnel resources. Public employment has grown considerably in recent years without corresponding dedication of resources to personnel administration. Consequently, the role of DPA is reactive and primarily limited to perfunctory and clerical record maintenance activities.
- DPA's administrative effectiveness is restricted partly by insufficient use of automated techniques which could enhance Civil Service administration. Administrative delays in and of themselves can defeat merit principles. Improved automation alone, however, is not sufficient to make Massachusetts public personnel administration as effective as desired.
- There are doubts concerning Civil Service's ability to comply with merit principles. Concerns are frequently expressed with respect to absolute veterans' preference and the validity of the examination process.
- The common perception of Civil Service employment is that it is somehow inferior and less productive than the private sector. A negative self-image prevails among many employees and extends to the public. Managers have few tangible rewards available to recognize good job performance.
- Written examinations are utilized too extensively in hiring and promotions, and factors other than job performance, such as seniority, are weighed too heavily in determining promotions.
- The personnel management within the cities and towns is impacted negatively by difficulties associated with central administration of local positions subject to Civil Service.

All of the Civil Service issues discussed in our report relate in some manner to one or more of these deficiencies. The significance of these deficiencies may be given some dimension by considering that the Civil Service system lacks credibility among professional public administrators, elected officials, and the citizenry of the Commonwealth. During our interviews, we noted substantial distrust and lack of understanding of the Civil Service process and an absence of confidence in the ability of the system to be properly managed. There is a prevalent attitude that Civil Service has been studied exhaustively without any substantive improvements being implemented. Indeed, some of those responsible for implementing improvements are themselves Civil Service employees who express a preconceived notion about the viability and advisability of change.

A major underlying factor contributing to the magnitude of these deficiencies in Civil Service is, undoubtedly, the labor intensive nature of government. Personnel comprises the largest single component of government cost, more than 60%. This emphasizes the need to manage finite resources, personnel and dollars, as prudently as possible. In addition, there is greater taxpayer awareness that public funds must be used as effectively as possible, that government services must be provided efficiently, and that public employees must work productively. These developments attest to the urgent need for changes in the operation of Civil Service. Improvements in Civil Service would also benefit an estimated 130,000 employees covered by it.

RECOMMENDATIONS

The changes we recommend to overcome or alleviate the foregoing problems and to establish an effective personnel management function are extensive. Some of them warrant immediate consideration and adoption. Others are likely to take several months or years to implement completely. Our principal recommendations are outlined below:

- The Special Commission should draft new legislation for submission to the General Court to replace Chapter 31. Rather than modify the often amended existing statute, the Special Commission should take the opportunity to start from a fresh perspective. The legislation should clearly define the respective roles of the Civil Service Commission and DPA, consistent with the recommendations of our report. Consequences of each deviation from strict merit should be evaluated in terms of the benefit to the operation of the Civil Service system. Other statutes which will be affected by the new legislation should be identified for appropriate modification.
- DPA should be given responsibilities for active personnel management and for Civil Service administration, such as policy and rule-making authority and compliance auditing. The responsibilities of the Civil Service Commission should be to review and approve DPA policies and rules for compliance to statute and merit principles. The review should include periodic audits of DPA's operational compliance to merit. The Commission should also have appellate jurisdiction to review administrative decisions relating to compliance with the statute and merit principles. Since the Commission is not a full-time body, separate hearing officers should be available exclusively to the Commission to investigate employee appeals. Cases brought to the Medical Review Board, which consists of private consulting physicians called by DPA to review controversial decisions made by the DPA staff physician, should not be appealable to the Commission.

- In order to take disciplinary action against employees, management should be required to demonstrate "substantial evidence" before the Civil Service Commission rather than a "preponderance of evidence," paralleling requirements in the federal merit system and consistent with the State's Administrative Procedures Act.
- DPA should serve as a convener and coordinator of all state entities involved with personnel functions. Consistent with its role as a division of the Executive Office for Administration and Finance, DPA should forecast the cost implications of personnel actions, including the results of collective bargaining agreements. The Office of Employee Relations should be made a bureau within DPA because of the interrelationship between collective bargaining and the major aspects of public personnel administration. The capability to project future job skill needs for the delivery of governmental service should also be housed in DPA.
- Personnel transactions lend themselves well to automation. A personnel management information system should be designed and implemented as soon as possible. Such information, which is important to the management of any organization, should be available and formatted to meet the management needs of municipalities and state agencies in a manner consistent with sound management practices. It is most important to maintain current certified lists for positions so that vacancies may be filled without inordinate delay.
- The new Civil Service law should provide for procedures for recruitment, employee training, performance evaluation, and merit salary administration that will enhance the image and professionalism of public employment, including suitable emphasis on effective management. A career service program is one device to be used to achieve more effective management.
- Competence should be the key determinant in hiring and promotion decisions. The use of written examinations should be refined and promotion decisions should be based on factors other than seniority. A ten dollar fee should be charged, payable at time of application, for all entry level examinations. This would reduce the number of frivolous applicants not seriously considering public employment. The fee could be waived for public welfare recipients, for those collecting unemployment compensation, and for those demonstrating hardship. Licenses, professional

certifications, or demonstrated skill proficiency should be used in lieu of written examinations for certain entry level positions. Promotions should be predicated on combinations of various criteria, including oral interview, educational background, objectively evaluated job performance, written tests and others, depending on the position.

More detailed presentation of these recommendations are set forth in the accompanying sections of this report. We believe that our recommendations, adopted and effectively implemented, will substantially improve the operations and the integrity of the Massachusetts Civil Service system. There will be costs associated with implementing these recommendations which must be considered in respect to the tangible and intangible benefits which they will provide.

We are ready to provide any further information needed and would be pleased to assist the Special Commission in implementing these important recommended actions. We appreciate this opportunity to assist and advise the Special Commission, and we express our thanks to the Special Commission's members and staff for their assistance. Their cooperation and sincere interest in improving the Civil Service system were key elements in completing our engagement.

Very truly yours,

Ernst & Whinney

Boston, Massachusetts
May 15, 1980

INTRODUCTION

Civil Service laws in the United States evolved in the late nineteenth century as a reaction to the practices of patronage or the "spoils system." Patronage has been condemned as rewarding politically active individuals with government positions in return for continued support. By making a job a reward for political activity, better qualified, but less politically adept individuals, could be excluded from entering government service.

In 1883, the Pendleton Act (Civil Service Reform Act) was passed by Congress as a "bill to regulate and improve the Civil Service of the United States." This Act encompassed many of the principles and specific procedures that form the basis of our public sector merit systems. The fundamental goals of the Pendleton Act were to reduce political patronage and cronyism, to provide for continuity in governmental service despite the disruptions of the electoral process, and to develop a cadre of professional public administrators immune from political influence. The Act included provisions for competitive examinations, security from political harassment, and insulation from politically motivated dismissal.

The Massachusetts legislature enacted the State's Civil Service law in 1884, the second state to pass such a statute. Since its enactment, it has undergone numerous amendments and revisions. Moreover, the statute's effect has been modified by judicial and administrative action.

Criticism of the Massachusetts Civil Service law itself and the operating procedures associated with Civil Service administration are not new. There have been numerous studies and task force-type attempts to improve Civil Service administration. The scope of these previous undertakings has ranged from investigating one or two specific issues to studying ways to completely revamp the system. Beginning with a special commission in 1938 and continuing to the present, certain issues have consistently been identified as legislative and administrative shortcomings, reflecting the need for improvements to produce a more adequate public personnel system. Problems of long-standing concern include recruitment, examination process, provisional appointments, veterans' preference, and probationary period.

The 1967 Special Commission on Civil Service conducted a comprehensive appraisal of Civil Service and other public personnel-related practices and recommended major revision of the Commonwealth's personnel system. One of that Special Commission's primary recommendations was the creation of a single control agency responsible for all public personnel matters. Subsequently, as a result of Chapter 835 of the Acts of 1974, the former Division of Civil Service and Bureau of Personnel and Standardization were merged

INTRODUCTION - continued

to form the Division of Personnel Administration within the Executive Office for Administration and Finance. A primary objective of the Special Commission was to provide a more modern and professional public personnel system, not unlike the goal of the present Special Commission.

Currently, there are two prevailing viewpoints concerning the problems of present operation of the Massachusetts Civil Service system. First, some believe that the problems associated with the system are the result of the construction of the Civil Service statute, Chapter 31 of the General Laws. The present law is extremely detailed and precise, creating many procedural obstacles which inhibit the exercise of reasonable management judgment. The flexibility of appointing authorities is curtailed by the existence of such precise procedures. Second, others believe that inadequate administration is the weakness of Civil Service. Persons expressing this view cite evidence such as insufficient funding levels, personnel vacancies in DPA, excessive use of provisional employees by state agencies, the possibility of court and Civil Service Commission interference, and paper-flow requirements associated with most personnel transactions. It is generally agreed that a personnel system should be an integral part of a successfully managed organization and should be used to achieve its operating objectives.

As a result of our analysis, we conclude that the present Massachusetts Civil Service system stresses the procedural rather than the managerial nature of personnel administration. Because of various court decisions, concern with insulation from political pressure, and heavy reliance on detailed procedures, Massachusetts Civil Service emphasizes the influence of law and regulation on the management of the merit system.

Some officials view the regulations as constraints that are excessive, resulting in the need for administrative juggling and manipulation. One tactic used to accomplish this manipulation may be evidenced by excessive use of provisional appointments to fill Civil Service positions. Currently more than 18,000 classified positions in state service are filled by provisional employees. As of mid-January 1980, DPA reports that 7,474 permanent state Civil Service employees are serving provisionally in positions with higher grades. While the result may constitute a technical violation of the law, managers justify the high number of provisional appointments based on excessive delays in securing permanent appointments and lack of flexibility in making appointments, especially in using promotion as a reward for performance.

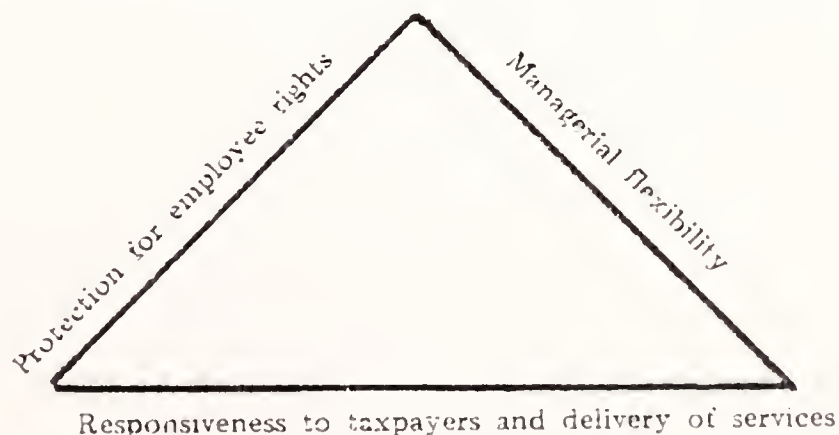
The Massachusetts Civil Service system can and should serve many useful purposes for all concerned. A merit system embodies sound personnel management principles, including:

INTRODUCTION - continued

- Selection on the basis of qualification and merit. The key to a successful merit system is appointment of the best qualified.
- "Equal pay for equal work." Compensation should be based on job duties and responsibilities.
- Elimination of political influences and the prevention of discrimination. All should have access to governmental employment, and employees should be protected from arbitrary and capricious treatment.
- Opportunity for promotion and career advancement based on merit. Sufficient opportunities should exist for professional growth.
- Establishment of the positive use of human talents, including the most effective use of management resources.

It is not sufficient to protect public sector employees from patronage and political harassment. Because of the increased role of the government, it is especially important for government to perform effectively and economically. The Civil Service system must also ensure that the best qualified individuals are employed and that personal skills are sufficiently developed and utilized. Government must be a leader in providing opportunity and training for all of its citizens. It must deal with prospective and tenured employees on the basis of their knowledge and skills. It must strive to promote on the basis of overall fitness for the job and to provide career opportunities through reasonable security and potential advancement.

The objectives in our report to the Special Commission on Civil Service Reform were to make recommendations necessary to develop a personnel system which includes sound management techniques in concert with the large body of employee-oriented Massachusetts law. An improved Civil Service system for Massachusetts should reflect:



To be an equitable and viable system, it should balance the rights of taxpayers, management, and labor. It should provide performance accountability and base advancement and compensation on attainment of prescribed and monitored standards.

Other states, too, recognize the importance of managing personnel resources in the most productive fashion possible. New public personnel reforms, some quite modest, others extremely detailed and extensive are being developed and implemented on a continuing basis in other states. Many parallel the Federal Civil Service Reform Act of 1978. Approximately ten other states are currently involved in Civil Service reform efforts similar to Massachusetts, and several are in the process of suggesting overhauls of their entire system. The topics discussed in our report are consistent with reviews in other states.

We have identified the major issues of professional public personnel systems and of merit systems in suggesting improvements to the current operation of Massachusetts Civil Service. These issues are:

- Organizational structure of the Division of Personnel Administration (DPA) and its relationship to the Civil Service Commission. Because these two bodies are directly responsible for the routine operation and administration of the personnel activities of the Commonwealth and will be most intimately involved with the long-term implementation of any adopted reforms, our recommendations are aimed at strengthening the organizational structure to achieve and support our recommended administrative and legislative changes.
- Classification. Position classification is an important component of any Civil Service system because it objectively organizes and categorizes jobs and establishes series and classes of positions. It lends itself well to the merit system because it provides identifiable career paths whereby employees can acquire the skills necessary for advancement. Classification also facilitates the "equal work, equal pay" concept, which is one of the fundamental principles of merit systems.
- Veterans' preference. At present, Massachusetts and New Jersey are the only states to exercise absolute veterans preference. As a result of New Jersey's recent study of its Civil Service system, a change to the New Jersey veterans' preference statute was recommended but not yet implemented. There are several justifications for the use of veterans' preference. Veterans' preference is viewed as a reward for services performed, as an aid in readjusting to civilian life, or as a form of social engineering. It is necessary to address this issue because many feel that veterans' preference discourages many qualified non-veterans from applying for government service, especially in the area of public safety, and discriminates against women who are not represented among veterans in proportion to their percentage in the work force. In 1979, the United States Supreme Court in Helen B. Feeney v. Commonwealth held that Massachusetts veterans' preference did not unconstitutionally discriminate against women.

- Probationary periods and tenure. The Massachusetts Civil Service law provides for a probationary period, usually six months, and provides a mechanism for dealing with employees who do not meet job performance expectations. There are several approaches for improving the value of the probationary period. One possibility is to extend the original period when need is demonstrated. Another approach is to strengthen the procedures regarding use of the probationary period. Since probation and the award of tenure are major components of all public personnel systems, every effort must be made to perfect the use of the probationary period so that both employer and employee enjoy maximum benefit. Tenure should not become a mechanism to guarantee lifetime employment without regard for job performance.
- Examination and testing procedures. In a merit system, examination and testing procedures serve as a basis for employee selection and promotion. Current written examination procedures are considered very cost-effective for selecting local public safety personnel. Properly used and administered, they could be the strength of a personnel system, economically and fairly ensuring that candidates are indeed qualified for positions for which they are applying. However, much depends on the timely availability of tests which measure appropriate knowledge, skills, and abilities to determine "the practical fitness of an individual." There is increased need for examinations to be job-related in compliance with the U.S. Supreme Court Decision of Griggs v. Duke Power Company. It is also necessary for examinations to be administered in such a manner that they are available to qualified potential candidates without discrimination.
- Certification of eligible lists and affirmative action. Examinations result in the creation of eligible lists. Eligible lists establish certifications for positions. It is important that this process is accomplished as expediently and equitably as possible. Affirmative action is not counter to merit system principles since its purpose is to provide equal employment opportunity. The administration of a personnel system must be able to ensure that affirmative action guidelines and judicial mandates are properly achieved.
- Provisional appointments and promotions. The use of provisional appointments in the Commonwealth is viewed by many as one of the most significant problems associated with the present merit system. Because of the examination backlog in DPA, many examinations are not scheduled or held, resulting in the appointment of provisionals by appointing authorities.

Consequently, at present the number of provisionals in state service is greater than ever, representing about half of the total number of State Civil Service positions. Our sampling of Massachusetts municipalities indicates a substantial use of provisionals at the local level, almost 15% of positions are filled provisionally. Reducing the extensive use of provisionals would benefit all involved, provided Civil Service can make available satisfactory employees. Employees would have equal protection and status, without speculation that the use of provisional appointments is an inroad for modern day patronage. Provisionals also represent a less than efficient means of filling vacancies. Aside from the cost incurred in training provisionals, there may also be unemployment costs if provisional personnel are displaced. Managers should not have to spend time and money training those who could be replaced by the next certification.

- Recruitment. An integral part of all professional personnel systems is an active recruitment program. Recruitment may also be essential for compliance with affirmative action programs. Because of the nature of merit systems, especially the unpredictability of examination results and career paths, adoption of positive recruitment techniques is difficult. There are several states employing innovative recruitment approaches. For example, Texas has adopted a management intern program with participants serving a one-year internship. Kentucky is approaching recruitment by granting school aid to students who have worked in state service for a period of time. The primary goals of a merit system recruitment program should be to enhance the image of public service and to promote opportunity for all citizens to enter public service. Advertising and making examination locations convenient can be aids to recruiting, but the performance of public employees is the most important recruiting factor.
- Training and development. The Commonwealth has not sufficiently pursued training and development. Most effective personnel programs utilize training and development procedures extensively. The University of Massachusetts' Institute for Governmental Service provides training and seminars for state and local elected and appointed officials. Some other training programs are beginning to be undertaken, such as through the efforts of the Governor's Management Task Force and private enterprise. Approached correctly, training benefits both the employee and the organization. It can add greatly to employee satisfaction and aid in making government service more professional. For a successful training program to take place, it is important to regularly determine training needs, allocate resources, and evaluate training programs.

- Merit and performance appraisal ratings. Although it is almost universally agreed that performance appraisal ratings are fundamental to a personnel program, there are no standardized appraisal rating systems used in Massachusetts, except for the State Police whose existing system is provided for in the General Laws. Much of the private sector depends heavily on employee evaluation in making personnel decisions, such as promotion, separation, and rehiring. Performance appraisal ratings should be developed and utilized as a means of communication between employee and supervisor, as an opportunity to improve performance. Merit principles require that performance appraisals be conducted consistently, fairly, and knowledgeably.
- Disciplinary actions and discharge. Disciplinary actions and appeal procedures are defined in Sections 41 to 45 of Chapter 31. The purpose of the sections is to specify the procedures that will ensure a predictable, consistent disciplinary process fair to both employer and employee. In addition to considerations of sound personnel administration and management effectiveness, public employee disciplinary actions are subject to constitutional safeguards beyond those available to private sector employees. Such safeguards should not be compromised by administrative shortcomings.
- Effects of collective bargaining on Civil Service. A common misconception is that Civil Service and collective bargaining afford workers "two bites of the apple," allowing employees an appeal mechanism through Civil Service and collective bargaining procedures. Indeed, existing statute (Chapter 150E) specifically precludes use of dual appeal routes. De facto dual insulation from exercise of legitimate management prerogatives may exist for the rank and file if supervisors are unfamiliar with or intimidated by the precise personnel action requirements of individual collective bargaining agreements and Civil Service procedures. Civil Service should protect merit principles, while collective bargaining should be limited to matters of compensation and working conditions. The law should clearly specify the jurisdiction of each so as to provide only one route for any appeal.
- Delegation and decentralization of personnel activities. Delegation refers to transferring to the municipalities statutory authority vested in the DPA Personnel Administrator under the provisions of Chapter 31. These delegated responsibilities are initially of a clerical nature, but could include list certification and some forms of examination. Decentralization of certain personnel activities refers to the effort to involve personnel professionals of the various state agencies in the administration of overall personnel management. The recent Governor's Management Task Force has

extended the concept of decentralization to include local government autonomy. Proponents of delegation and decentralization are motivated primarily by the desire to become more independent from a centralized Civil Service system and/or the procedures used by DPA to fill positions. Proponents assume that local control will be more responsive to local needs. Both delegation and decentralization imply shifting greater responsibility and cost for personnel administration to the local government level and to state agencies. Delegation and decentralization tend to be responses to dissatisfaction with administration of the current Civil Service system.

- Career Service. Many states are exploring the possibility of a career or executive service program, some modeled after the federal program. A career service program incorporates many of the attributes of the private sector to encourage productivity and accountability for performance. A career service program fulfills these objectives within the public service context, which otherwise would tend not to have sufficient flexibility to support them.

The remainder of our report discusses these key issues in greater detail. Our recommendations are practical and implementable and based on a commitment to sound management. Our recommendations are management options, presented as alternatives for consideration and as assistance to the Special Commission in its decision-making.

MERIT SYSTEM

Merit and Civil Service, although frequently used interchangeably, are not synonymous. Merit refers to certain principles of competency and fairness that guide government employment practices. "Meritocracy" is service by the best qualified. "Civil Service" refers to the organizational structure which promotes the merit concept, but it does not guarantee that the most efficient and dedicated workers will always be employed, just as patronage does not always mean that only incompetents will be hired.

The Massachusetts Civil Service system is a "merit" system in that:

- It conforms to a basic principle that demonstrated ability, primarily through the use of written examinations, rather than political advantage, is the means to gain entry and achieve advancement for positions under its jurisdiction.
- Its primary stated objectives are to protect the public service against arbitrary and capricious political appointments, removal, and coercion.
- It bases compensation on an independent position classification system which groups similar jobs based on responsibilities and requirements, thereby adhering to the concept of "equal pay for equal work."

A Civil Service System is not a "merit" system to the extent that it fails to achieve these standards.

In order to operate without sanction from a higher level of government or from the courts, merit systems must display the ability to promote equity in job opportunity and to resist the introduction of patronage. Inclusion in the Civil Service statute of special "preference" provisions for small segments of the general population is often viewed as an exception to merit. Extraordinary use of temporary and provisional appointments for extended periods of time to fill vacant positions is cited as an example of an administrative means to obstruct merit. Any legislative or administrative deviations from strict merit potentially result in making the system more vulnerable to manipulation by politicians or by special interest groups acting through elected officials.

Chapter 31 of the Massachusetts General Laws is the statute governing the State's Civil Service system. Originally enacted almost one hundred years ago, it:

- Embodies much of the late nineteenth century emphasis on a structured, legalistic approach to Civil Service administration to prevent tampering by those disposed to corrupt the merit system.

- Concentrates on procedural aspects of personnel management, thereby reducing operating flexibility.
- Requires that appointing authorities adhere to procedural safeguards for management to justify disciplinary action against employees.
- Includes amendments and preference sections which reflect the legislature's desire to modify the statute to accommodate interest groups and changing social conditions.

In addition, other state laws, judicial decisions, and administrative actions have contributed to a large body of administrative law affecting the Civil Service system. For example, collective bargaining, employee benefits, and comprehensive municipal personnel by-laws affect Civil Service administration without being part of the Civil Service statute.

Operating a personnel system under the existing Massachusetts law is awkward. Rules and procedures exist which cause inconsistencies. Veterans, for example, have absolute preference for provisional appointments, but there are exceptions to the absolute nature of the preference. A possible situation is described below:

A vacancy for a promotional position exists. A veteran has absolute preference for a provisional appointment, but a re-employment list takes preference over any provisional appointment. If a veteran is appointed to the vacancy on a provisional basis, the veteran must be terminated once a re-employment list is produced. The provisional appointee (the veteran) may or may not be certified as eligible for the position. Considering the backlog of examinations in Massachusetts, it may be months or, perhaps, years before a list can be produced. In the meantime, the provisional is trained for the position and personnel records are changed, all at a cost in terms of time, service delivery, and dollars.

Public sector managers often express dissatisfaction with a personnel system which they view as unwieldy and overly legalistic. The result is that prescribed, legitimate management prerogatives are often forfeited by administrators because of apprehension that a procedural detail will be overlooked, nullifying their effort after considerable investment of time, energy, and personal prestige.

A procedural requirement which seems especially to serve as a disincentive to managers is the necessity of providing a "preponderance of evidence" in support of disciplinary actions before the Civil Service Commission. Such precise and extensive documentation can impose a large burden on management. Since Civil Service actions constitute "state action," it is important to ensure that employees receive necessary constitutional safeguards. However,

it is impossible to speculate about the extent to which managers elect not to exercise their proper authority because of misunderstood or misapplied procedural requirements.

To strengthen the statute responsible for governing Civil Service and, therefore, to better effectuate the implementation of merit principles, we recommend the following actions.

- Chapter 31 should be replaced by legislation modeled after a proposal submitted by the Special Commission on Civil Service Reform. Actual drafting of the legislation could be accomplished by interested Special Commission members. As a result of our interviews, we understand that certain members are already preparing information on subjects that could be included in future legislation.
- The broad objectives for the Civil Service system that should be emphasized are improved performance accountability, enhanced professionalism, and simplified administration.
- The proposed legislation should incorporate the recommendations contained in this report.
- Rather than offer a patchwork of amendments, the Special Commission should commence its work by defining the operating objectives of Civil Service, based on recommendations contained in this report, and should proceed by framing new legislation that will facilitate the achievement of these goals.
- Without being burdened by fitting amendments to a law, the Special Commission should appreciate that some portions of the existing law will probably be included in the proposed legislation. Careful thought and deliberation should take place before any section is included, and the potential operating consequences of every provision should be considered.
- Preference sections should be moderate and should apply only to entry level positions. Preference sections will probably continue to be incorporated in the statute, as they are in other states and in the federal system. The primary standards of a preference provision are to provide a large enough population from which to draw qualified job candidates and to avoid unreasonable discrimination against identifiable segments of the population. To maintain the integrity of the preference section, the legislature should resist making preference amendments to the statute, especially those that apply to small groups which would therefore be inconsistent with the standard above.

- Preservation of merit is the primary legal requirement of Civil Service. The Civil Service Commission must be in a position to insure conformance with merit principles, including authority to prevent collective bargaining agreements from compromising merit principles. To facilitate this, legislation should clearly define those areas which are proper subjects for collective bargaining such as salary and working conditions.
- The requirement that a "preponderance of evidence" must be shown in employee disciplinary cases brought for appeal to the Civil Service Commission should be modified. Circumstances requiring such a standard should be narrowed, or the standard should be replaced by "substantial evidence," making the evidentiary requirement more parallel with the federal system and more consistent with the Administrative Procedures Act, Chapter 30A. In notes following Section 11 of that Act, it stated "Traditional rules of evidence do not apply in proceedings under Administrative Procedures Act; however an agency finding must be supported by substantial evidence." (Goodridge v. Director of Department of Employment Security, 1978). This evidentiary requirement should not encourage or permit arbitrary or capricious action by supervisory personnel. By changing the evidentiary requirement and by providing clearly defined procedures and forms to assure compliance with requirements, administrators should be more likely to pursue actions against those not meeting job expectations.
- Specific time limitations should be established for initiating all personnel-related actions. Fairness requires timely attention to actions. Sound management purposes are served by dealing with matters currently, when information is fresh, and preventing undue delays. Sufficient resources, including an adequate number of hearing officers, should be provided consistent with the workload which results from the implementation of new law and procedures.
- Managers should be provided with written manuals detailing specific managerial responsibilities and tailored to the needs of different appointing authorities and supervisory levels. The objective of the manuals should be to reduce confusion regarding the exercise of management authority and should reference Civil Service rules and regulations and appropriate collective bargaining agreements. Manuals should define supervisory procedures, including job performance standards, evaluation and rating procedures, documentation requirements, and supervisory techniques.

Replacement of Chapter 31 and adoption of other recommendations in this report will also necessitate modifications to other statutes which pertain to personnel. The Special Commission should begin

immediately to identify all statutes relating to public personnel administration. The House of Representatives legislative information system should be utilized to assist in this purpose.

Any new legislation should consider existing statutes pertaining to private sector employment in Massachusetts, such as provision for unemployment insurance and workmen's compensation. For the Civil Service system to be competitive in recruiting and retaining qualified employees, the Special Commission should consider all aspects of public and private sector employment in the Commonwealth in its model legislation. The benefits for governmental employees should not surpass those of their private sector counterparts, but they should be competitive.

ORGANIZATIONAL STRUCTURE

"Civil Service" provides the organizational framework for the implementation of the merit system. The Civil Service Commission, drawing its authority from Chapters 7 and 31 of the Massachusetts General Laws, oversees implementation of merit principles. The Division of Personnel Administration (DPA), within the Executive Office for Administration and Finance (A&F), is responsible for administering the personnel and merit systems for state and local governments. Chapter 835 of the Acts of 1974 provided for merging the former Bureau of Personnel and Standardization with the Division of Civil Service, creating the DPA. Chapter 30 of the Massachusetts General Laws defines DPA's personnel responsibilities, and Chapter 31 defines its merit system functions.

The Civil Service Commission is composed of five members appointed by the Governor to five-year staggered terms. Not more than three members may belong to one political party, and one member must be a bona fide representative of labor. Civil Service Commission members work part-time with relatively limited staff resources. The most significant duties of the Commission relate to its authority to promulgate policies and rules and its authority to listen to appeals on a wide range of merit system related issues. Most of the Commission's activities involve reviewing appealed decisions of DPA.

DPA's current organizational structure reflects its primary administrative responsibilities for development, implementation, and enforcement of the state's personnel and merit systems policies, practices, and procedures. DPA's major functional areas are classification, recruitment, examination, certification, record maintenance, and employee career development. These areas are common to most public personnel and merit systems.

The administrative units within DPA correspond primarily to the functional areas and are consistent with those of most other states. A functional and organizational exception is that DPA's jurisdiction extends to municipalities. Only the New Jersey Civil Service system is as comprehensive in terms of its jurisdiction. Approximately 40% of all DPA's resources are directed toward serving local governments. From January 1979 through December 1979, DPA allocated about \$1.0 million, represented primarily by sixty-three personnel, toward municipal examination and test validation. This was approximately 60% of all DPA resources dedicated to these important functions.

In evaluating the effectiveness of the organizational structure's suitability for implementing the Massachusetts merit system, we especially considered these factors:

ORGANIZATIONAL STRUCTURE -continued

- Definition of areas of responsibility between the Civil Service Commission and DPA.
- Role of DPA as a unit within A&F.
- Allocation of resources to DPA to perform its operational objectives.
- Use of automated techniques by DPA.
- Relationship of DPA to the appointing authorities at both the state and local levels.

Our analysis included considerations of sound management practices, organizational structures in other states and the federal government, and the unique requirements of Massachusetts. As a result of our analysis, we conclude:

- DPA does not engage in active personnel management despite its organizational position within A&F. Although DPA's operational role is traditionally described as proactive exercise of leadership in public personnel management, DPA's actual operational characteristics are more reactive. DPA's primary activities tend to emphasize recordkeeping and reporting functions. Even the preparation of examinations tends to be in reaction to existing position vacancies rather than in anticipation of future staffing needs.
- The roles of the Civil Service Commission and DPA are not distinct and well defined. There is an overlap of functions in that the Commission becomes involved with a myriad of procedural and administrative issues. For example, the Commission has heard an appeal and ruled on the validity of a single question from a multiple choice examination, perhaps extending its authority beyond the provisions of Chapter 31 in regard to procedures regarding multiple choice examinations. The Commission has been involved in the technical aspects of administrative issues such as "broadbanding" for grouping of certain supervisory and managerial positions for testing purposes. The Commission has heard appeals resulting from decisions of the Medical Review Board, a separate body charged with independent review of DPA medical decisions. DPA is supposed to carry out the rules promulgated by the Civil Service Commission and approved by the Governor, providing administrative support consistent with merit policy. DPA's role is intended to be neutral and objective regarding application of merit principles, representing neither management nor the rank and file. DPA's inclusion within A&F, however, creates a dichotomy because of A&F's purely executive, management functions.

ORGANIZATIONAL STRUCTURE -continued

- Since its inception, the allocation of resources to DPA has not kept pace with its increased responsibilities. During this period, DPA has been subject to the effects of inflation, the need to comply with court decisions, the expansion of the public service work force and the need to develop an improved personnel system for Massachusetts. New programs to provide professional counseling service to employees, Chapter 775 of the Acts of 1979, for example, and to assist municipalities in adopting delegation have been added, for example, without a corresponding increase in appropriated funds or personnel. DPA has 367 positions allotted with 82 vacancies, a 22% position vacancy rate. It is impossible to adequately determine the effectiveness and efficiency of an organization when so many of the positions recognized by the executive and legislative branches as necessary for DPA to perform its mission are vacant. DPA's Fiscal Year 1979 expenditure was \$4,735,975 and its Fiscal Year 1980 appropriation is \$4,963,000, an increase of approximately 4.8%.
- The numbers of separate governmental entities involved with functions germane to public personnel administration fragment responsibility and impede coordination for important personnel functions. Among the entities not responsible to DPA that administer important personnel functions are the Retirement Board, the Office of Employee Relations (collective bargaining), and the Group Insurance Commission.
- DPA's value to A&F as a source of information is not fully utilized. Although personnel comprises the largest single government operating expense, DPA does not play a key role in the budget preparation process. DPA does not forecast the budget implications of collective bargaining agreements or of fluctuations in departmental staffing patterns.
- Despite having responsibility for administering the implementation of Civil Service, DPA has insufficient audit staff to monitor compliance by appointing authorities. An audit team, consisting only of a project director, administrative assistant, and secretarial assistant, are designated to audit municipalities participating in delegation.
- DPA tends not to benefit fully from automation. Effective use of automation is essential for DPA to meet its performance obligations. Existing automated systems for examination administration and personnel recordkeeping were designed to fit the structure and limited capabilities of second-generation data processing equipment. These systems have been upgraded only the amount minimally necessary to run on new computer equipment which the A&F data center periodically installs. Although a major user of the data center computer, DPA receives only enough programming

assistance to maintain present levels of operation. DPA systems have not been upgraded to take advantage of technological advances which have become available. Consequently, DPA systems tend to be technically inefficient and cumbersome to operate. Current DPA requests for new systems represent primarily an attempt to apply new technologies to existing system philosophies, which should result in some processing improvements. However, achieving a significantly improved, more acceptable level of operating effectiveness probably will require completely new systems based upon fundamentally different perceptions of DPA's role and functioning. DPA has had little access to the systems analysis, design, and implementation capabilities which would be necessary to achieve significant performance advances through automation.

- Personnel record maintenance and reporting tend to be given low priority in the government. DPA often receives inadequate notification of important personnel information long after the time when the data would have been of greatest value. To a considerable extent, DPA's operational inadequacies which concern appointing authorities result from the appointing authorities' own shortcomings in providing adequate and timely information to DPA.
- Local governments do not always consider DPA's services to municipalities to be worthwhile. For example, public safety, police and fire, constitutes the largest municipal service. Last year, approximately 14,000 police and firefighter examinations were administered by DPA. In addition to grading the examinations, large numbers of candidates were given physical examinations and firefighter candidates also were given strength tests. Certified qualified candidate lists were produced for use by the municipalities. Despite this considerable expenditure of effort on the part of DPA, only limited number of police and firefighter appointments were made statewide. Many local governments failed to recognize that they lacked the resources to identify and screen qualified candidates, even for a relatively few positions. DPA's centralized efforts, although seemingly excessive, probably were more economical and effective than the local governments would have achieved by acting independently. However, local governments understandably are disenchanted by the length of time required from informing DPA that a position is vacant to filling that position from a certified list.

An effective DPA is essential for ensuring compliance with merit principles. Active management participation by DPA would be valuable in improving the quality and cost effectiveness of delivering governmental services. The recommendations we are presenting that relate to the organizational structure of Civil Service are aimed at

improving operating procedures, strengthening DPA administrative capabilities, and ensuring protection of merit principles by the Civil Service Commission. The proposed organizational structure embodies a separation of powers philosophy conforming to sound principles of government and management. We recommend the following proposals to the Special Commission.

- DPA's role should be consistent with the management responsibilities inherent in its organizational position within A&F. DPA should exercise policy and rule-making authority for effective personnel management in compliance with merit principles. DPA should administer a formal appeals process responsible for defining issues and ascertaining facts.
- The Civil Service Commission should have the authority to review and approve DPA policies and rules only with respect to compliance with Civil Service law and merit principles, and should exercise appellate review of DPA administrative decisions relating to these same areas. The Civil Service Commission may suggest rules to DPA, but it is DPA's role to promulgate rules.
- DPA should be responsible for administering or for coordinating among agencies all major aspects of personnel management.
 - The Office of Employee Relations should become a bureau within DPA because of the obvious relationship between personnel administration and collective bargaining. Currently, the Personnel Administrator has no organizational control or authority over the collective bargaining process. Collective bargaining is a significant factor in public employment administration, and ultimate responsibility for representing management's position in contract negotiations should be vested with the Personnel Administrator. The executive branch in New York state, undergoing a review of the role of the collective bargaining agency in personnel, will soon submit a similar proposal for legislative action.
 - DPA should serve as a convener to coordinate retirement and insurance activities. DPA and the appropriate agencies should consult in all significant decisions affecting these employee benefits in order to provide necessary cost data and other governmental units' preferred practices information. Pensions and insurance are significant employee welfare benefits involving the management of and accounting for substantial amounts of funds. It is not unique in the public or private sector for these benefits to be administered by special boards,

commissions, or legal entities that are separate from the personnel agency, but it is reasonable that the central personnel agency serve as a resource to the boards without being in a dominant organizational position and without violating the independence of the boards.

- DPA should develop an internal staff capability to analyze the results of collective bargaining agreements, departmental staffing modifications, and trends that may signal changes in the skills mix requirements of governmental agencies, providing information for A&F's Bureau of Budget and for appointing authorities.
- DPA should create an audit capability to monitor compliance of Civil Service regulations by appointing authorities. Mechanisms for assuring compliance are essential to carrying out the full spirit of the law.
- The Civil Service Commission should be involved in reviewing compliance of DPA's administrative procedures to statute and hearing appeals concerning violation of merit and law. Included in this would be a sufficiently formal DPA administrative procedure for developing the facts of controversies under the Civil Service law. The Civil Service Commission would hear only those appeals whose records the Commission determined presented a proper case. The Civil Service Commission's appellate jurisdiction would be limited to reviewing the adequacy and appropriateness of procedures for public personnel administration with respect to the Civil Service law. In a manner similar to other appellate bodies, the Commission would not be a finder of fact, rather, the Commission would address only facts and issues introduced in DPA administrative procedures.
- DPA should form an impartial review board, perhaps consisting of administrators from various other public agencies, to arbitrate disputes over DPA administrative findings of fact, where the dispute is both material and based upon reasonable contentions of DPA's lack of objectivity under the circumstances.
- Procedural and examination related issues should not be heard on appeal to the Civil Service Commission. The criteria for appeal to the Civil Service Commission should be alleged violation of individual, personal rights, or statute.
- The decisions of the Medical Review Board should not be subject to the Civil Service Commission's appellate jurisdiction.

ORGANIZATIONAL STRUCTURE -continued

- The Civil Service Commission hearings should be at locations throughout the state. It seems more economical to have a few Commission representatives travel some distance than to transport appellant, counsel, appointing authority personnel, and witnesses. Moreover, traveling to various parts of the State might better acquaint the Commission with local problems and concerns and increase the visibility of the system.
- The Civil Service Commission should be funded sufficiently to provide periodic audit monitoring of DPA's compliance to approved procedures.

The present structure provided for Civil Service administration and the appointment procedures of the Commission and Personnel Administrator should facilitate implementation of recommendations for legislative and operational modifications. The Commission may exercise a degree of independence from the executive branch because of the length of time of appointment. The Personnel Administrator is selected by the Secretary of A&F, with the approval of the Governor, from among three candidates identified by the Civil Service Commission, allowing for more flexibility than if the position was filled exclusively as a result of the Governor's action. Moreover, the Personnel Administrator does not serve coterminously with the Governor. As a result of the appointment process, the Commission and the Personnel Administrator should be able to act on substantive administrative changes with some insulation from special interest groups and from elections.

The Special Commission should inform the executive and legislative branches that it will be making recommendations for DPA operations that will impact significantly on DPA's budget. DPA's operating budget request for Fiscal Year 1981 is \$7,362,537, or 48% more than its previous year's appropriation. The executive and legislative branches should scrutinize the request carefully, consulting with the Special Commission to ensure that an adequate allocation is available for implementation of DPA's organizational and operational modifications during FY81.

RECRUITMENT

Personnel systems generally utilize both passive and active recruitment techniques. The former refers to recruitment practices with more limited employer input while the latter refers to greater allocation of resources and direct efforts to achieve recruitment objectives. In regard to merit systems, passive recruitment primarily entails identifying vacant positions through requisitions from appointing authorities, posting notices, scheduling, administering, and grading examinations, and supplying appointing authorities with appropriate lists of eligible candidates, that is, certifying candidates. Active recruitment is more outreach oriented, including, for example, rewarding current employees for attracting new employees, utilizing employment agencies and search firms, participating in job fairs, interviewing at colleges and at business and technical schools, publishing position vacancies in professional journals, and promoting general public interest in public sector employment opportunities.

Private sector personnel systems are more often characterized by active recruitment practices than are most public sector systems. Most state merit systems incorporate at least some elements of active recruiting into their recruitment practices, perhaps because of the public sector emphasis on this technique as preferred practice. Merit systems do not, however, lend themselves well to typical active recruitment efforts for the following reasons:

- Guarantee of employment often cannot be offered immediately to a candidate. Applicants usually must participate in the examination process and follow prescribed employment procedures. This is a particular disincentive to college and business or technical school students because often they are unfamiliar with the employment process, require certain employment to meet financial obligations, or are anxious to apply their skills by entering the job market.
- Career paths cannot be defined clearly because of rules such as seniority and/or emphasis on written testing for advancement. Civil Service in Massachusetts relies extensively on seniority and written examinations for selecting employees for promotion. Advancement depends heavily on the comparative longevity of employees seeking promotion and on the ability to perform well on job content related written tests, which tend not to be accurate indicators of performance or managerial ability.
- Promotional opportunities and performance rewards tend to be greatly limited in comparison to the private sector. Many managerial positions are filled through appointments from outside the system. There is no quantifiable measure of success, such as profits, for which an employee can be compensated based on relative contribution.

- The time between notice of position vacancy and appointment can be lengthy. In Massachusetts, it is not uncommon for vacancies to exist for several months. There are instances when positions are vacant more than a year.
- The objectives of public sector and private sector personnel systems are not identical. Private sector recruiting usually is a tool for maximizing productivity. Public personnel systems are often considered more as instruments of social policy and change, such as emphasizing and encouraging hiring of veterans, minorities, handicapped, and women. Public employment is recognized as a means by which groups can have greater access to the mainstream of this country's economic life. In some cases, the government adopts a policy whereby it serves as the employer of last resort. Public sector employment is, therefore, often seen as a means of social engineering. Federal court consent decrees are considered by some municipal and state personnel officials as evidence of attempts to achieve broad social policy objectives through the merit system. It should be noted, however, that similar concerns are increasingly spreading to the private sector.
- Active recruitment requires targeting a select population with specific skills and characteristics for employment and allocating resources accordingly. Particular college campuses may be targeted for recruitment because of their academic reputation or course of study, for example. Merit systems must design their recruitment strategies to ensure widespread knowledge of job opportunities among the population. A selective, targeted approach could be considered contrary to merit principles.
- There can be the perception among potential job applicants that certain merit system preference sections, such as those pertaining to veterans, all but eliminate many of those qualified and interested in competing for available positions, especially in the field of public safety.
- Many of the ingredients, such as a centralized personnel authority, skills inventory system, and follow-up interviews, necessary to conduct an active recruitment program, are absent from most merit systems. In Massachusetts, DPA's recruitment section is comprised of three professional and three clerical staff with a Fiscal Year 1980 operating budget of approximately \$180,000. The limited resources allocated to DPA's recruitment efforts, indicating a low priority associated with the application of active recruitment techniques, is a primary reason for its passive role. The actual statewide public personnel allocation of resources for recruitment cannot be calculated because individual appointing authorities may also engage in various recruitment activities on an informal, irregular basis.

Until very recently, Massachusetts practiced only the most passive type of recruitment. The recruitment policy was predicated primarily on the posting of jobs and administering examinations. Formal recruitment activities made by the Civil Service consisted of setting minimum job requirements, distributing job notices, and notifying legislators of the examinations. Public posting tends to notify relatively few potential candidates, primarily existing public employees who regularly are in the locations where notices are posted.

In 1977, as a result of reorganization, the Division of Personnel Administration and the Division of Employment Security jointly administer the Office of Recruitment and Referral. This Office is a sub-unit of DPA's Personnel Records Bureau. The specific functions of the Office are to recruit for Civil Service and other public service positions and to sponsor career days and workshops for the public. The Office also performs special projects for DPA that are to encourage interest in state employment opportunities. The Office receives support from another sub-unit of the Personnel Records Bureau, the Information and Skills Matching Agency. The responsibilities of this Agency include dispersion of information, advertising, media contact, and creation and maintenance of a talent bank and personnel profile system.

The administrative intent in creating the Office of Recruitment and Referral was to better attract potential applicants to state government professional positions with salaries of more than \$10,000 per annum, located within the Route 128 area, for which no Civil Service list existed. The mandate of the Office of Recruitment and Referral was, therefore, to focus on a very limited portion of the population and to provide a type of employment service for those interested and qualified in certain positions, often ones of a highly technical or scientific nature.

The Office of Recruitment and Referral acts as a clearing house for job applicants. Applicants submit their resumes for matching to the skills required for existing or anticipated vacancies in state agencies. After an individual's skills, as identified in the resume, have been matched to the potential job opportunity, the individual state agency is responsible for follow-up.

The effectiveness of the Office of Recruitment and Referral in attracting job candidates to higher paying and more professional types of positions is probably predicated somewhat on general economic conditions of the job market. It is reasonable to speculate that during periods of higher unemployment, the Office would be more successful in attracting skilled individuals to state service. If there is a downturn in the economy, as current economic indicators suggest, the work of this Office may be more significant, providing there is normal turnover in state positions.

Effective recruitment procedures require attention to Chapter 778 of the Massachusetts General Law. This statute implements federal manpower programs and was adopted to create cooperation among various governmental training programs so that disabled and disadvantaged persons would have greater opportunity for access to entry level Civil Service positions. Once individuals have completed Chapter 778 training and have passed a Civil Service examination, they are placed on a special eligible list for the position. Appointing authorities may appoint from a regular Civil Service list or the special list, enhancing the opportunity for appointing authorities to have access to individuals that will assist them in meeting Affirmative Action and equal employment opportunity objectives. Continued maintenance of this program is necessary to bring those previously excluded into public service.

Recruitment is an essential part of any personnel system. The principle objective of the Massachusetts Civil Service system should be to attract the highest caliber public employees possible. This is necessary to perform the business of delivering governmental services and to enhance the public view of governmental employment. We recommend recruitment process be structured as follows:

- The recruitment section within DPA should be responsible for orchestrating all recruitment efforts for state employment, including Civil Service. Position titles common to all state agencies and positions having a large number of potential applicants should be recruited directly by DPA. Agencies having positions peculiar to that agency should recruit on a decentralized basis, using DPA as an informational resource. Similar positions among certain job titles within a state secretariat should follow a common recruitment process. For example, positions requiring social worker skills exist in several agencies within a single secretariat. Recruitment effort for those positions should follow direction from the secretariat, utilizing the technical expertise available in DPA. DPA should coordinate the scheduling of all aspects of recruiting to avoid duplication of effort and dilution of agency/secretariat resources. Staffing to perform this task should be determined by DPA's Personnel Administrator, emphasizing DPA's role as supportive staff to appointing authorities. The ultimate funding level necessary to achieve this role will be established by the usual budget process, but it does appear that current funding is inadequate considering the size of the employer.
- A major responsibility of the recruitment section should be to develop a program for promoting the image of Civil Service employment. This requires an effective public relations campaign aimed at improving the public opinion of Civil Service. The benefits of public employment, including the value of performing necessary service, should be transmitted

via the news media. Newspapers, television, and radio should be utilized. Factual information on compensation and job responsibilities should be presented in a way that will convey the benefits and value of Civil Service employment to individuals. Special attention should be taken to eliminate misconceptions regarding all aspects of Civil Service employment. For example, the definition and meaning of regulations pertaining to Affirmative Action and veterans' preference should be presented. Opinion that Civil Service is a maze of statutory provisions which impedes entry of qualified individuals, eliminates performance incentives, and allows retention of incompetents must be significantly altered. The goal of the DPA should be to present information in such a way that the image of Civil Service will be enhanced throughout the Commonwealth. However, such a positive image will be accepted only to the extent it is consistent with people's experiences with public employees.

- A special skills inventory should be created and maintained. It is most appropriate for an automated system to record the skills and talents of those interested in Civil Service employment, especially for scientific and technical positions. The skills inventory should be under the jurisdiction of DPA. The State Division of Employment Security should be encouraged to refer potential job candidates to that office so that information from them can be recorded in the skills bank. When examinations are scheduled for certain positions, those with the appropriate skills match should be contacted directly by Civil Service. No written examinations should be used to screen applicants for positions requiring a license or certificate. Qualified interested applicants should be interviewed and decisions regarding hiring should be based on interview performance, educational background, prior experience, and professional references.
- Special training programs assisting people to qualify for specific position openings should be encouraged and promoted to attract desired candidates, especially in conjunction with affirmative action objectives. Other programs that attempt to match future employment opportunities to ongoing educational and training programs, such as the Governor's Bay State Project, should also be adopted.
- Special workshops and seminars should be presented on college campuses, such as is done in Nebraska and Vermont and by agencies of the federal government, to attract students interested in government employment. Information should be distributed regarding available positions, dates of examinations, locations of examinations, and general information regarding Civil Service employment. Similar

programs should be conducted at business and technical schools. Typing and general clerical examinations should be given at the schools so that interested students may take tests at convenient locations. Moreover, the schools' equipment and facilities could be leased by contractual agreement. Tests for official service positions should be administered on college campuses, as is done for graduate record or law board examinations. Appointment dates should be matched to expected graduation availability. Similar procedures should be followed to recruit persons separated from military service.

- Public employers must abide by Affirmative Action requirements as established by the federal government, state legislature, courts and other agencies having appropriate jurisdiction. The objectives of Affirmative Action and merit system are not mutually exclusive, but care must be exercised to preserve proper balance between them. Affirmative Action does not mandate hiring or promoting an otherwise unqualified person merely on the basis of minority status. Rather, Affirmative Action addresses the need to remove unreasonable obstacles to the hiring or advancement of qualified minority candidates. In addition to recruitment activities, the use of the rule of "3 + 3" allowing appointing authorities access to names of qualified job candidates is a technique employed to meet Affirmative Action objectives. In this regard, recruiting and training are especially important. Recruitment is vital to Massachusetts public service to attract the best qualified employees, especially those described in the controlling Affirmative Action Plan. Historically, various minorities have lacked sufficient contact with public employment as indicated by *Culbreath v. Dukakis*. Civil Service recruitment techniques can be very important for informing and encouraging such persons to pursue employment opportunities. A failure to adopt appropriate Affirmative Action techniques could be construed as a violation of federal requirements, possibly resulting in the loss of federal revenue sharing funds.
- Churches, community centers, and public buildings used by neighborhood groups, especially in minority neighborhoods, should be locations for examinations. These are also appropriate locations for posting information regarding Civil Service hiring procedures. Active recruitment in minority areas would confirm the Civil Service system's commitment to Affirmative Action guidelines, would adhere to the *Culbreath* consent decree, and would strengthen the DPA's position in possible future court actions. This would be showing a positive, coordinated effort to truly attract minority candidates.
- A summary list of position openings and examinations should be published regularly and conspicuously in newspapers of general circulation and those serving target groups. This would inform the general population, especially persons actively in

the job market, of Civil Service opportunities. Currently, there is a likelihood that postings are observed mainly by persons who already are public employees.

Civil Service recruitment may be best enhanced by the overall development of an efficient and effective public employment service. More productive public service and the concomitant awareness by taxpayers that governmental service is useful and worthwhile are the greatest aids to recruitment efforts. The organizational and the procedural recommendations listed above are no substitute for public confidence.

Recruitment practices vary from state to state, depending on the degree of authority exercised by the central personnel office in comparison to the appointing authorities, the use of career service programs, or the use of written examinations to fill positions. Our recommendations are based on DPA's performing a supportive function for appointing authorities while recognizing that public personnel systems are becoming increasingly decentralized to the departmental level. Certain responsibilities, such as improving the general opinion of Civil Service through a public relations-type effort or maintaining an automated skills inventory, should be centrally controlled and directed. Other responsibilities, such as conducting special training and interviewing job candidates with special licenses should be the responsibility of the departments. This provides an appropriate division of responsibility among the line departments, appointing authorities, and DPA. Our approach also has application for municipal participation in local, regional, or statewide recruitment programs.

Position classification is especially prevalent in public personnel systems. Position classification came into existence during the 1920's at the federal level and was introduced ten years later in the various states, in conjunction with other general reform measures. The time period's increased emphasis on budgets and budgetary constraints motivated governments to try to standardize compensation for similar positions. Of those states responding to our questionnaire, classification/compensation was frequently cited as a main topic of concern.

Position classification is a key element in the administration of a merit system. Classification involves the independent evaluation of a job's comparative requirements and economic value. The classification exists separately from emotional factors which could affect the reliability of the position's valuation. Classification supports merit principles by providing assurances that a position's value is determined objectively without respect to who is incumbent in the position or in a superior position.

Under a classification plan, jobs are assigned a classification within an existing matrix. Jobs are classified with "series" having common functions and subjects. For example, positions dealing with personnel administration could form a series. Jobs are also classified within "classes," which are based upon required levels of skill, experience, and responsibility. Entry-level positions could form one class, and positions with supervisory responsibilities could form another class.

Classification also provides a rational, consistent, and systematic approach to work description which is important to personnel administration. It facilitates the selection and evaluation of employees. By developing job requirements and responsibilities for an entire series, a potential employee may be evaluated in terms of suitability both for present and for longer-term usefulness to an agency. A classification plan requires maintenance of current job descriptions, resulting in continuous monitoring of positions to ensure their relevancy to meeting agency objectives.

Classification aids the employee in career development. The classification plan provides an identifiable career progression by ranking and ordering all jobs according to occupation. Employees can identify the career opportunities within an agency or secretariat and aim at developing those skills necessary to attain personal career objectives.

By classifying positions on the basis of identifiable standards, classification provides an objective means for comparing seemingly dissimilar positions, which is essential for compliance with "equal pay for equal work" principles. In this way, classification helps prevent abuses which could circumvent merit. For example, without classification control, new position titles could be created to provide higher salaries for favored employees without corresponding increases in position requirements. Excessive creation of new job titles can impede effective administration of a classification plan, which is necessary to provide assurances that comparable positions are compensated comparably.

Classification is not equivalent to "scheduling", which determines a position's salary. Class and series are important in establishing the position's salary. Class determines relative salary within a series. Higher class positions receive higher salaries. However, class alone does not set a position's absolute salary. Rather, the position series will be associated with an economic value relative to all other series of jobs. Market and other factors define the salary ranges (schedules) to be paid for each series. Precise salaries are assigned within the salary range based on position class in the series.

Our study found that most states with a central personnel agency charge that agency with responsibility for creating accurate position description specifications and classifying the positions accordingly. In Massachusetts, General Law Chapter 31 places responsibility on the Personnel Administrator for establishing and maintaining the classification plan, which is consistent with practices in other states. The statute provides joint responsibility by giving the Civil Service Commission the power to approve the plan including any amendments proposed by the Personnel Administrator. The Personnel Administrator is responsible for proposing or initiating general classification policy, the creation of classes, and the revision or modification of class specifications. Although some states vest full authority for such actions in the Personnel Administrator, Massachusetts requires the Civil Service Commission's authorization for implementation.

The Massachusetts Personnel Administrator also is responsible for review and revision of the wage and salary schedule which applies to classified positions. Unlike other states, however, Massachusetts does not give the Personnel Administrator authority to assign salaries to positions. General Law Chapter 30, Sections 40 and 45, vest authority in the legislature's Joint Committee on Ways and Means to establish a position's salary and to define the position as either permanent or temporary. The Joint Committee's decisions are guided by the Personnel Administrator's recommendations. Such a degree of direct legislative control over personnel positions distinguishes Massachusetts from other states. Care must be exercised to ensure the classification plan's consistency. States citing legislative control

over personnel typically indicated that it was restricted to the adoption of budget limitations on the funding for positions.

We found that Massachusetts presently lacks an operable classification plan. DPA administrators estimate, for example, that the present 2,800 job titles actually would represent only about 1,500 positions when defined by uniform and consistent criteria. Such an excess of position titles represents a potential threat to the viability of a merit system.

"Classification inflation" usually results from insufficient administrative control over the classification system. Six of the Classification Bureau's twenty-four approved personnel analyst positions are presently vacant. Such understaffing can seriously curtail the Bureau's ability to maintain the classification system, especially as government expands and assumes additional responsibilities.

Superfluous new job titles and series can be created unless there are sufficient control resources to review position requests for accommodation within the existing position classifications. Various professional groups strive for recognition by seeking separate classification. Managers, perhaps frustrated by other system inflexibilities, may seek new classifications to provide position and salary upgrades to reward worker performance. There is always the danger, however, that unscrupulous managers could take advantage of the inadequacy of controls to create lucrative positions as rewards for political activity or other inappropriate purposes.

A related source of classification inflation is "grade creep," which results from indiscriminate upgrading of positions. For example, current collective bargaining agreements involve the advancement of about 40,000 State employees by one grade on the salary schedule. Thus, in order to increase salaries of affected employees, the supposedly intrinsic value of certain positions was modified. By ignoring the external standards on which classification is based, "grade creep" undermines the classification plan's credibility. With each "grade creep," it becomes increasingly likely that a position's pay no longer corresponds to the value which would be placed objectively upon the position, thereby often necessitating creation of new positions to meet needs. This defeats merit principles and exposes the Civil Service system to abuse.

Within DPA, the Bureau of Classification is working with departmental representatives from various agencies to achieve a reclassification plan. In the first part of the reclassification effort, knowledge, skills and abilities (KSA) and entrance requirements encompassing over 1,000 agency titles and including over 452 preliminary specifications for fifty-one occupational groups were developed.

In the second part of the reclassification effort, in-depth analysis and review of initial findings were performed and final specifications for classification were prepared by agency subject matter experts. The first two parts of this reclassification plan were completed within the allotted time frames.

The last portion of reclassification is expected to be completed in the spring of 1980. It will entail the comparison of individual agency personnel questionnaires with preliminary specifications for classification to properly classify all agency titles not previously included.

DPA will review agency recommendations and allocation of all titles to new classifications. It will submit recommendations in budget format, along with necessary legislation, to A&F for review.

The study's fulfilling its primary objectives is contingent upon the continued cooperation of various State departmental representatives. Legislative and executive support is also very important to reclassification's success. This plan should include well-defined career ladders and promotional opportunities, elimination of dead-end jobs, identification of training needs for all titles, identification of job-related KSA and minimum entrance requirements for each title, and proper classification for all positions.

A modern and responsive public personnel merit system is predicated upon a continually reliable and valid classification plan. Merit and meaningful personnel management require assurances that positions are objectively defined with respect to one another. Salary schedules must be consistently related to position classifications. The modernization of the classification system should be a top priority.

Our recommendations are to:

- Utilize the results of the extensive statewide reclassification effort presently in progress. Much valuable information has been developed which must be used to obtain full value. Additional reclassification and refinement should be accomplished on an ongoing basis by the Classification Bureau, especially with regard to requests for creating new position titles.
- Reduce the number of position titles by utilizing more broadly based classification standards. This is a primary objective of the reclassification effort and will greatly simplify administration. By expanding classification criteria sufficiently to accommodate greater numbers of positions, disproportionate emphasis upon discrepancies can be diminished. This will reduce the likelihood that a position's salary fails to correspond to its functional requirements.

- Implement the managerial classification plan completed by an independent consulting firm in 1977-78. A previous study determined that one-fourth of the managerial positions in the Commonwealth were allocated to job group levels higher and one-fourth to job group levels lower than warranted by job content evaluation. Some administrative/clerical positions were classified managerial while approximately 500 managerial positions overlapped in job content with certain technical/professional classifications. It was recommended that each managerial position be classified according to duties performed and that these classifications be allocated over seventeen job groups. The consultant's recommendations have not been implemented. Certain aspects of the consultant's recommendations must be brought up to date, compensation schedules in particular. Interim steps could be taken to implement the recommended Managerial Classification Plan concurrently with the results of the Statewide Classification Study on its completion in July 1980. Effective management requires a plan which can fairly reflect position responsibilities in compensation rates which may not be subject to collective bargaining's effects.
- Place major responsibility for maintenance of the new classification plan at the agency level. Primarily, this should involve placing new positions within existing classifications. Many departmental representatives have been involved in the present reclassification effort and are familiar with the technical requirements associated with maintenance of a classification plan. It is important for the agencies to recognize when job content actually changes, keeping positions properly classified without modifying the plan unnecessarily.
- In conjunction with greater agency responsibilities, the Bureau of Classification should assume a quality control and technical support role. DPA should aid in classification upon request and audit any new classifications to ensure standardization within all departments. Classification appeals should be handled by the secretariat. Unresolved appeals would be submitted to the Bureau of Classification for investigation and decision.
- Municipal reclassification should be by request upon completion of the Statewide Classification Study. Updating of the municlass manual should be initiated only when there is interest and funding support from local sources. At present, DPA resources are inadequate for an undertaking of this magnitude. DPA's auditing should periodically review the adequacy of municipal classifications for compliance with merit requirements. Suitable sanctions should be imposed to encourage municipalities to maintain adequate classification plans.

EXAMINATION AND CERTIFICATION

In order to determine qualification for employment as objectively as possible, Civil Service tends to rely upon written examinations which purport to measure suitability for particular positions. Written examinations are generally economical to administer and impartial. Persons scoring highest on these examinations are certified for open positions. Positions usually are filled from certified lists.

Civil Service's most difficult function is the creation of examinations whose content validly measures qualification for a position. Based on analysis of current openings, positions are identified for examination. Test constructors spend approximately nineteen weeks analyzing the selected positions and deciding whether other positions can be "banded" for examination with the same instrument. Since Civil Service tests are difficult to construct and are administered only once, it is considered economical to spend time finding opportunities to test for several positions with the same set of questions. Tests are generally banded horizontally to cover similar but unrelated positions. There is little vertical banding of positions requiring various levels of the same skills.

Although certain positions involve practical examinations and skills demonstrations, such as typing speed and accuracy, most Civil Service examinations are multiple choice tests of information considered important for filling a particular position. Multiple choice examinations are economical to administer since they can be scored by machine. For example, examinations frequently test knowledge of applicable statutes and regulations. Civil Service examinations generally do not attempt to measure aptitudes or skills. Consequently, examinations have been challenged on the basis that their content does not validly measure qualification for a position. Risk of challenge tends to increase as more positions are banded for testing with a single instrument.

Current legal requirements involve the public posting of notices about examinations for three weeks prior to the final filing date. A separate notice must be printed and posted for each position, even though the same test may be used for several positions. Separate notices are necessary because specific job descriptions and eligibility requirements may vary among positions banded into the same examination. Although applicants usually would not apply for multiple positions tested by a single examination, Civil Service does attempt to consolidate separate applications from an individual for banded positions.

For statewide examinations, about 7,000 posters are printed by the Commonwealth's Central Reproduction Services Office. Many of the

posters are distributed for public posting in each city and town. The remaining posters are distributed in response to requests for more information. Typically the notices are posted in public buildings, where they are primarily seen by and of interest to current public employees. Consequently, the general public may not become aware of examination notices.

Persons desiring to take an examination must submit an application form about five or six weeks prior to an examination. "Continuous examinations" are not scheduled until a sufficient number of applications have been received. Application forms are available at various locations throughout the state or by mail. The application form consists of two keypunch cards, one of which is filed alphabetically by applicant name. The data on the other card are keypunched and posted daily to a computer file. The card is then filed by examination. It is important to note that data items are not keypunched into the application card itself. That is, it is of no consequence that the application is printed on a keypunch-type card.

Based on computer analysis of testing location demand and other factors, test sites are scheduled. The computer generates notices of where to appear for examination. Testing sites may differ from the requested or most convenient location. These notices are sent to applicants along with an Application for Civil Service Employment Official Service. On this form, the applicant indicates training and experience, work location preference, and other background information. The applicant completes the form and submits it at the examination site. About sixty percent of all applicants actually take examinations. Some states require no pre-registration, but this may be inappropriate for necessary scheduling control.

Civil Service typically requires about ninety days to notify applicants whether they have passed or failed an examination. A considerably longer period elapses before Civil Service certifies a list of candidates for a position.

Because of the confidential nature of Civil Service examinations, they are very difficult to pre-test. To protect the integrity of individual examinations, it is always necessary to secure tests prior to administration. Consequently, a certain amount of test validation occurs after the test has actually been administered. Time may also be required to resolve any irregularities in the test administration and to reconcile various documents. Using optical scanning equipment and computers, examinations usually are scored and statistics are prepared within three weeks. However, another three to four weeks are required to adjust for ambiguous questions and to establish a passing grade. Current computer programs are limited in their ability to make adjustments flexibly and to accommodate banding.

After applicants with passing grades have been identified, their training and experience are evaluated. In some cases, the evaluation is necessary to verify that minimum eligibility requirements have been satisfied. Training and experience, as opposed to seniority, must be a component of promotional examinations. For many examinations, a numerical score is ascertained for each passing applicant's training and experience.

Part of the test results analysis involves comparing performances of various demographic groups on each item and on the examination as a whole. The currently used computer programs print a series of separate analyses for each variable, which an analyst must "eyeball" and manually consolidate for meaningful comparisons. Additional statistical analysis is performed at separate expense using a commercial computer time-sharing service.

In contrast to scoring the written examination component, there appears not to be a reliably standardized technique for scoring an applicant's training and experience. Nor is there a systematic procedure for verifying the applicant's self-report of training and experience, although existing personnel information on public employees may be examined. Apparently, the only verification of reported training would be through matching against public employees' previous reports of training and non-public employment. Usually there is no independent verification of the non-public training and experience reported by applicants.

When a numerical score is assigned to training and experience, it is input to the computer along with a weighting formula and composite score passing grade. The computer calculates each applicant's composite score based on separately weighted scores for the written examination and for training and experience. The computer then generates pass/fail notices based upon the composite score.

The computer also generates score-ranked listings by veterans' preference groupings as claimed on the employment application form. Claimed veterans' preference status and criminal record data then will be verified. After all background data have been verified, Civil Service is ready to certify lists of candidates. Separate certified lists are prepared manually for each position examined. Thus lists of applicants who have taken the same written examination may vary considerably based on position applied for and work location preference.

The Division of Personnel Administration is currently seeking federal funding to support development of enhanced computer systems for examination and list processing. The proposed computer system will use interactive data entry to improve data quality and reduce delays

identifying and correcting errors. The system will include improved controls to further ensure data integrity and security. The proposed system will support much more flexible examination scoring techniques, which are important for more effective use of banding and other test design factors. The proposed system is also intended to be more efficient from a data processing standpoint, thereby requiring less computer time for updating and reporting. Present computer runs take so long that they often cannot be scheduled in a timely manner. Greater facility for on-line inquiry through video display and hard copy terminals will increase system responsiveness while further reducing batch computer requirements to print large volumes of reports. The proposed computer system also would replace reliance upon the cumbersome files of examination application cards. The system would generate certain lists and information requests presently prepared by hand. In addition, the proposed system would provide management enhanced information for controlling examinations and list processing.

An underlying premise of the Civil Service data processing systems is that required effort can be reduced significantly by delaying entry of certain data until there has been a reduction in the number of applicants for whom it must be entered. For example, applicants do not supply background information until they actually take a written examination. Presumably this saves processing of background data for the forty percent of applicants who fail to appear at the examination site.

Different portions of the background information are processed at different times, each time for an increasingly smaller number of applicants. The training and experience portion is evaluated only for the estimated sixty percent of examinees who have passed the examination. Of these, only previous public sector experience is verified. The eligibility for preferences is checked only for passing applicants who have applied for preference. Also at this time, more than three months after the examination date, work location and situation restrictions listed on the passing application forms are scrutinized so exceptions can be posted to the applicant's computer records.

Based on our review of the operational aspects of administering Civil Service examinations and certification, we found:

- A substantial percentage of those making application for tests do not appear when the test is given. About 40% of the applicants do not appear for examination, and among those that do appear, a certain element would be considered frivolous candidates.

- Existing automated systems are insufficient to provide the required levels of assistance with current examination procedures. The Civil Service processing was designed with regard to economic considerations and equipment of the 1960s. At that time, computers lacked the speeds and capacities which are readily available today. Despite being a major user of the A&F data center, DPA's computer programs usually have been upgraded only minimally to maintain compatibility with new equipment, without benefiting from the new equipment's additional capabilities.
- DPA operations area recognizes that processing is slow and somewhat inefficient. It has requested funding to develop new computer programs to replace existing functions and to automate additional functions. However, the proposed system mainly emphasizes faster performance of existing processing, rather than improvements in basic processing concepts. There is a reluctance to challenge procedures controlled by non-operations areas, such as test construction, on the assumption that their specialized requirements necessitate perpetuation of existing procedures.
- DPA's approach to test construction may insufficiently utilize tests of skills and aptitudes and tests from external sources. For example, the International Personnel Management Association (IPMA) and certain commercial publishers can supply examinations for various positions. Some positions may involve Civil Service examinations in addition to a requirement of independent licensing or registration, which alone can constitute an adequate measure of proficiency for compliance with merit principles.
- Current notice posting procedures appear inadequate for attracting the desired breadth of qualified candidates. Posters tend to notify a limited number of potential applicants, primarily those already working for the government.
- The unpredictability of testing locations may reduce participation and convey an impression that Civil Service is disorganized.
- Scoring of training and experience factors is time-consuming and unreliable. There is no verification of experience prior to public employment. Even descriptions of current duties in public positions are subject to misrepresentation. DPA's reviews are not sufficiently thorough to identify most misrepresentations and call into question the value of any of the large effort spent reviewing applications.

EXAMINATION AND CERTIFICATION -continued

- Relevant information about actual job performance is not included in assessing qualification for a position, even for a promotion.
- Procedures predicated upon narrowing the number of cases actually may result in converting routine processing into a large number of exceptional cases, each of which requires additional attention.

We recommend the following changes to current procedures for administering Civil Service examinations and certifications.

- Collect a ten dollar fee at time of application. This modest fee should screen out those not seriously interested in a Civil Service position. Allowance for a fee waiver should apply to those receiving unemployment compensation, welfare assistance, or other demonstrated need.
- Implement automated systems of sufficient technical capabilities to fully process necessary data volumes efficiently, such as through thorough interactive editing of all data at entry time. DPA has requested funding for upgrading of processing capabilities.
- Develop a commitment and procedures for ensuring the thorough review of applications. It is especially important that sufficient control procedures be implemented to identify misrepresentations of material facts. Active prosecution should be included among such control procedures, supported by "penalty of perjury" warnings on applications.
- Design and implement more comprehensive automated systems to render currently exceptional situations routine and thereby better utilize the automated equipment in assisting operations. For example, by requesting and entering all data with the initial application, the equipment could generate exception notices and routine requests for confirmation of claimed experience, educational attainment, and veterans' status. This would free higher-skilled analysts for duties more fully utilizing their skills.
- Utilize data from the public personnel system, including evaluations of training and experience for current positions. Update the personnel system with information on examination results and basic data regarding newly hired employees.
- Regularly publicize all examinations in advance through summary notices printed in newspapers and posted publicly. The summary notice would list all examinations scheduled and direct interested persons in how to obtain further information and application materials.

- Schedule all examinations for specified dates and places. Tests should always be administered at the same locations. For this reason, consideration should be given to the discontinued use of "continuous examinations" since the examination date is unpredictable. Adopting these changes would reduce confusion and promote an appearance of better organized Civil Service administration.
- Increase emphasis upon testing skills and aptitudes relevant to performing position requirements. Greater use of practical tests and skills demonstrations should be encouraged. Demonstrated proficiency, rather than ordinal ranking, should be the determinant of qualification. Practical skills demonstration are generally accepted as valid since they verify the possession of job-required capabilities.
- Obtain tests from external sources when such tests can be demonstrated to have sufficient reliability, validity, and relevance to Massachusetts Civil Service needs.
- Eliminate testing for those positions where national licensing or possession of a professional certification is required. Having passed the necessary requirements for entry into their field, it is redundant for the DPA to retest. This is consistent with practices in most other states where submission of a copy of the license or certificate automatically places one on the eligible list. Hiring decisions among qualified candidates can be made on the basis of training and education, such as is consistent with practices in Florida, North Carolina, Connecticut, Maine, and Vermont. Those decisions are best made at the state agency or municipal levels.
- Discontinue the use of written tests for promotion where there is no substantive change in the technical knowledge required. With an improved examination procedure in place, appointing authorities will be assured of entry level employees having the requisite knowledge to perform their jobs. Until the grade level where the technical knowledge required changes, promotion is better based on training and experience, including results from performance appraisals, similar to procedures used for promotion in North Carolina, Vermont, Georgia, Indiana, and Michigan. Pennsylvania utilizes a special performance evaluation to test for promotion.

PROBATIONARY PERIOD

Common to employment in both the private and public sectors is the use of a probationary period. This is a time-limited period in which new employees can continue to be tested and evaluated under actual working conditions, a "working test period." Depending upon their job performance during this period, determination can be made either to retain or to dismiss the employees. In many ways, in the public sector, it can be a continuation of the examination process. Although employees may be well qualified from a substantive knowledge and technical perspective, they may not perform adequately in a daily job environment. A personality characteristic, for example, may impede the employee's interaction with other employees, which often is necessary for the successful completion of duties.

Under the Massachusetts Civil Service system, the provision for and the length of the probationary period are defined in General Laws Chapter 31, Section 34. This section states that following an original appointment, the employee must perform the duties of the position on a full time basis for six months prior to being awarded permanent status. Many public safety positions with training periods extending beyond six months require a longer probationary period. Police and fire fighters in municipal service undergo a twelve-month probationary period; Metropolitan District Commission, Massachusetts Bay Transportation Authority, Capitol Police, and the correction officers in state service undergo a nine-month probationary period.

During the probationary period, the employee has limited job security. If an employee's performance or character is not satisfactory, the employee can be dismissed. This action must be initiated after thirty days and before the end of the probationary period, otherwise the employee is deemed to be tenured. In the case of dismissal, the appointing authority must provide the employee and the Personnel Administrator with written notice of the impending action and the particular reasons for it. Since misuse of the probationary period termination powers could circumvent the precautions inherent in the examination process, it is important that terminations be based on objectively verifiable reasons which are managerially sound.

Public service managers tend not to utilize the flexibility of the probationary period to prevent unsatisfactory employees from achieving permanent status, from which dismissal is more difficult. The primary reasons for managers' reluctance to exercise prerogatives with respect to probationary employees appear to be:

- Clear procedures, including measures to ensure that procedures have been carried out, have not been defined to guide managers and inform probationary employees in a manner consistent with principles of merit and sound management. Primarily, there is no reliable means for ensuring performance has been evaluated fairly, relevantly, or with sufficient formality and documentation to support dismissal.
- There is not a historical tradition of managerial accountability in the Massachusetts public sector, which may result in mainly negative responses to the dismissal of any employee, thereby shifting the onus from the employee's own performance to the manager.
- Massachusetts has not provided suitable training to prepare managers for situations such as evaluation and termination of unsatisfactory probationary employees.

Successful use of a probationary period is important to all employees, appointing authorities, and to taxpayers. We recommend that:

- A manual should be developed describing the respective rights and responsibilities of probationary employees and their managers. The manual should incorporate standard forms and procedures, which should be developed to assist managers and probationary employees in complying with all procedural requirements of the probationary period. Regular routine adherence to prescribed procedures promotes presumptive assurances that necessary protective requirements have been satisfied.
- A structured orientation session should be used to explain office/department procedures and regulations. Depending on the size of the department or agency, this can be done individually or, in appropriate cases, in a group session. The session should be conducted by both central management personnel, to discuss general requirements, and the new employee's immediate supervisor, who should define rules, regulations, and operating procedures that are common for all employees within the office/department. It should include warnings against certain practices and activities that can lead to disciplinary action. It should clearly inform the employee of the employer's expectations and performance monitoring procedures.
- Definite standards relating to performance of the probationary employee's specific job should be established. Definite standards are requisite to a successful probationary period. They can eliminate many negative occurrences which otherwise

might arise. Role conflict (competing demands on an individual) and ambiguity (the absence of clearly stated expectations) can be reduced if a new employee is aware of expected performance. Performance standards also help reduce the likelihood of unrealistic employee expectations which can result in job dissatisfaction. The performance standards should be conveyed in writing by the immediate supervisor within the first week of employment. Ordinarily written job descriptions, provided they are maintained regularly, would sufficiently describe performance standards. The supervisor and the new employee can discuss each job component, determining its importance and defining the expected levels of performance to be achieved at designated times throughout the probationary period. Reviewing the standards with the supervisor should reduce uncertainty as to expected performance.

- Reviewable performance appraisal evaluations should be utilized as a basis for retention or dismissal during the probationary period. Standards and criteria should be especially strict, since the probationary period may effectively represent the last opportunity to affect the caliber of the public work force. Definite standards must be established and new employees must be made aware of the scope of duties and level of performance expected for evaluations during the probationary period. Certain probation-related criteria, such as development of necessary skill levels, attendance, punctuality, and peer relationships should be emphasized in making the final decision whether to retain or to dismiss employees based on the probationary period. Such criteria would receive different emphasis in appraisals of continuing job performance by permanent employees. Effective use of performance appraisals requires:

- that definite standards exist and are measurable;
- that immediate supervisors (those most familiar with employees' duties and performance) be trained in using the evaluations so that they are an effective tool in determining employee suitability and are not viewed as perfunctory; and
- that they be used at least twice during the probationary period to build a confidence level.

The first evaluation should take place about two months from the employee's starting date. This seems adequate time to become acquainted with position requirements and to perform

actual duties while reasonable time remains in the probationary period to rectify mistakes and correct deficiencies. The second evaluation should be scheduled two weeks before the six month period is to end. The second evaluation would be intended primarily for documentation and review of the supervisor's reasons for recommending retention or termination. The second evaluation would not be expected to result in subsequent performance improvements which would affect termination decisions.

If the initial performance appraisal had identified significant deficiencies, an interim review of progress in correcting the specific deficiencies should be conducted within a short time, perhaps a month thereafter. These time guidelines are somewhat arbitrary and may be varied depending on the judgment of the authority. It is important, however, that the appointing authority establish a consistent schedule for evaluating all probationary employees. Every effort should be made to be equitable to employees and to provide time to learn job requirements and to rectify unsatisfactory performance. This recommendation is consistent with probationary evaluation procedures adopted in Ohio, Michigan, New Jersey, Vermont, and several other states.

- Consistent with sound management techniques and privacy safeguards, employees should be permitted to review the performance appraisals and indicate dissenting views. Where possible, employees should be given a copy. Of all the states surveyed, only New Mexico did not access a copy of the evaluation for the employee. Employees and supervisors should discuss performance at regular intervals to identify strengths as well as weaknesses. Employees and supervisors should be comfortable with the review. Even if they do not agree on the actual ratings, it is important for supervisors to convey the reasoning that provided the basis for the rating. The establishment of definite standards and the use of performance appraisal ratings not only aid the supervisor in performing an equitable assessment of employee performance, but they safeguard employees from capricious and arbitrary supervisory personnel.
- Supervisors should be trained to conduct performance appraisals. It is necessary for supervisory personnel to recognize that administering the performance appraisals and reviewing the results with employees are important components of their own positions. They must schedule the time required to provide guidance and must understand that one purpose of the probationary period is to complete the employee selection process. Supervisors should, therefore, be trained in the use of dismissal procedures. A problem in both the private and

public sectors is that some supervisors do not exercise dismissal procedures, while others can abuse them. Supervisors may avoid taking appropriate action during the probationary period, resulting in tenuring unsatisfactory employees. This may happen because of conflicting demands on the supervisor's time, the relatively low importance attached to personnel matters, the supervisor's desire to avoid an unpleasant situation, or other reasons reflecting inadequate performance of supervisory responsibilities.

- Employee rights should be protected. Abuses can occur during the probationary period when supervisors could dismiss employees on the basis of politics, race, sex, handicap, or other unacceptable reasons. With supervisors trained in the administration of performance appraisals, with definite standards of performance established, and with an orientation session covering policies and procedures required, the incidence of abuses to employee rights should be diminished. Presently, probationary employees may be dismissed for vague reasons and have only restricted rights of appeal. Probationary employees should benefit from the introduction of performance standards and appraisals that should reduce ambiguity.
- The new Civil Service law should specifically define the legal requirements for dismissal. These requirements should be explained in information manuals and should be incorporated in the design of forms and procedures. An appeal right should be provided, primarily to ensure compliance with procedural requirements. A supervisor's abuse of or insufficient adherence to probationary period requirements should result in sanctions against the supervisor. However, it generally would be managerially unsound to force a supervisor to retain a probationary employee for whom the supervisor is on record as recommending dismissal.
- DPA should establish and enforce procedures ensuring compliance with probationary period administration requirements. Clearly defined procedures will facilitate monitoring. Conscientious and competent administration of probationary periods should be an important component of every supervisor's own performance requirements. This will require DPA's timely awareness of hiring actions.

Extension of the probationary period may be warranted in individual instances. Extensions should be requested by the agency head and granted or dismissed by the Personnel Administrator at the State level or by the chief personnel officer at the municipal level. Extensions should be granted

only upon the submission of documented evidence of appropriate circumstances, such as that the probationary employee is improving after a far less than satisfactory initial evaluation, supervisory personnel have been absent and have not had adequate time to assess performance, or supervisory personnel have not fulfilled evaluation requirements.

Performance evaluations are a common management tool in both the public and private sectors. There are two prevalent reasons for the use of performance appraisals in governmental organizations. First, the use of objective standardized performance appraisal ratings, rather than political or personal influences, in management decision-making (compensation, promotion, retention/dismissal decisions) furthers the merit principle. Employees should be aware prior to the evaluation process of performance expectations, and how the results of the evaluations will be used.

Second, performance evaluations serve as a basis for employee development. The process can be a valuable communications tool between management and employees in a process that includes performance planning, review, and appraisal. Periodically assessing performance can establish goals and foster understanding of why objectives were or were not achieved. Appraisals can be used as an opportunity to identify needed performance improvements, specialized training programs, or changes in the functional areas in which employees are working. Merit requires that the best qualified individual receive promotion. Performance appraisal ratings should be one of the key components in an operable and equitable merit system.

Based on our findings, we conclude:

- Rated job performance generally is not a factor in Massachusetts public personnel decisions. Step raises usually are automatic, without relation to employee performance. Formal requirements for promotion, often in conjunction with a written promotional examination, tend to emphasize superficialities such as years of service and responsibilities defined in position descriptions, rather than actual functions performed or quality of performance. The primary circumstances in which on-the-job performance affects personnel actions relate to termination of probationary employees and to provisional promotions, which we have noted elsewhere to be excessive in Massachusetts.
- Massachusetts lacks a mandatory uniform performance evaluation system. Because standardized performance appraisal rating procedures do not exist, seniority is still the prime determinant in promotion, separation, and rehiring decisions. There are inadequate provisions for the administration of evaluations or for their utilization in the management decision-making process.

- The Commonwealth previously attempted to implement a performance appraisal system, which was rejected as overly subjective for use as part of the promotional examination process. It was indicated that the technique's objectivity had not been demonstrated sufficiently. It seems that the objection was to the particular evaluation procedures rather than to the concept of performance evaluation.
- Present techniques referred to as performance appraisals generally are limited to cursory reviews of performance for qualification during the probationary period. Associated review forms are general enough to be used to support any probationary period decision. Controls are insufficient to assure all probationary employees are evaluated. Consequently, employees can remain in public employment even when performance is not to management expectations.
- There is a general lack of supervisory training, including training in the use of performance appraisal systems. Because no formal uniform evaluation program exists, there is a corresponding lack of personnel familiar with the mechanics of administering an appraisal system and utilizing the results in a responsible manner. Some supervisory training has been instituted recently in conjunction with the private sector.

Missouri, Montana, New York, and Oregon have enacted legislation requiring performance appraisal systems. Pennsylvania bases compensation for non-collective bargaining employees on results of performance appraisals. Arizona, Connecticut, Georgia, Hawaii, Kansas, Maryland, Michigan, Minnesota, and Virginia are currently undergoing studies of possible reform or have pending legislation.

We recommend that Massachusetts implement mandatory personnel appraisal ratings for all employees. To achieve this objective, we recommend:

- DPA should assume the leading technical role to initiate, coordinate, and control implementation. DPA's Bureau of Employee Development should design and distribute a general form for agencies and municipalities to record requirements and standards of performance related to each agency position. Subsequent DPA review will ensure consistency and standardization systemwide. These forms should be returned to the agency for review with representatives of DPA to ensure that evaluation standards are equitable and accurate. Deadlines for response should be established and enforced by DPA and A&F.

It is important to establish clear performance standards on which an individual will be judged. Performance evaluation is similar to position classification since both require a clear description of the position's functional requirements. It is necessary to understand the factors affecting a position before attempting to evaluate performance. An employee's performance should be evaluated on different levels, including objective measures of work volumes, results achieved, and work habits such as tardiness and absenteeism. In addition, the supervisor should subjectively evaluate work quality, reliability, and interpersonal relations. A successful performance evaluation would address employee performance on each of these levels. To facilitate the rating process, those tasks or habits which are identified as being critical to the successful completion of the job can be rated on a graduated or numeric scale from "unsatisfactory" to "outstanding." An equally important component is a narrative section to expand upon those traits that are not conducive to scaling on a linear basis.

The supervisor and employee should review the rating together and should indicate on the form that the employee has participated in a review. The employee's own comments should be incorporated in the permanent record. Often this is accomplished through means of an employee's completing a self-evaluation form for comparison with the supervisor's form. The performance evaluation review should provide a meaningful continuous communication between the employee and supervisor. With a rating as the basis for employee development, the meetings can focus on methods for improvement. An agency or municipal executive should review evaluation documents to ensure adequacy and consistency.

- The responsibility for establishing the individualized performance appraisal ratings should be at the agency and municipal levels. Where appropriate, input should be obtained from employees and collective bargaining representatives. DPA would serve primarily as a source of technical expertise and as a means for maintaining consistency among different users. DPA should be responsible for ensuring that agencies/municipalities maintain the appraisal standards over time and establish standards for new positions.
- Employee performance should be evaluated at least twice a year. Additional appraisals should be reinforced regarding tenure and probationary periods.

- Administration of the performance appraisals should be an important component of the public employment system. Supervisors and managers should carry out their responsibilities in administering the system. Their failure to do so would reflect negatively on the performance of their position and could result in damage to their own career advancement.
- Periodically, agencies and municipalities should report to DPA, on forms provided by DPA, pertinent information regarding the administration of performance appraisals. For example, the date, name of supervisor administering the review, composite performance rating and specific recommendations, if any, should be reported.
- DPA has the responsibility to monitor compliance with the performance appraisal procedures both on the basis of evaluating the periodic reports and through other audit techniques.
- DPA should maintain permanent records of performance appraisal results as part of an automated system of personnel information. DPA should make this information available to appropriate parties for use in personnel actions such as raises, promotions, and terminations.
- DPA should hear appeals regarding performance appraisals when the affected employee can demonstrate there is a reasonable basis to believe that
 - the appraisal was performed without regard for merit principles (beyond mere difference of opinion regarding the employee's performance); and
 - an actual economic benefit would be likely to accrue to the employee on the basis of an appropriate performance evaluation.
- In order to promote the successful implementation of a performance appraisal system, especially considering the likelihood of court actions and appeals, it is important to gradually introduce the system under controlled circumstances. During the trial period, procedures will build credibility and errors and inconsistencies will be identified and corrected. Also during this period, extensive training in the use of performance appraisals could be carried out for supervisors.

- Initial field testing of the performance evaluation procedures should be with the managerial/executive level, including those opting for career service. Performance evaluations should not be associated solely with clerical and entry level positions. Managers and executives have at least as great an impact upon the organization as their subordinates. It is necessary to establish rating forms for these positions and implement their use. Management by objective can be utilized, establishing a link between the results or productivity of an organization and a manager's performance. Executives can be rated on the same characteristics as their subordinates with added categories pertaining to managerial functions, such as, supervising, budgeting, and planning.
- Supervisors should be trained in the use of the rating system. A successful performance evaluation system is predicated on the belief that valid performance standards are being measured by people knowledgeable in both evaluation techniques and the substantive subject matter. All states that use performance evaluations provide some form of training. This training ranges from a rater handbook distributed to all supervisory personnel to three-day workshops conducted by different agencies. The training can assume many forms but should explain the mechanics of the system, potential problems confronting the rater, how the results should be utilized in successful management decision making, and how the different evaluation components should be weighed.
- Performance appraisal ratings should be a basis for promotion decisions. Adequately administered performance evaluations should be an integral part of an employee's personnel file and should be supporting documentation for assigning a training and experience rating. Performance appraisals should be designed to elicit information about an employee's suitability for added responsibility or work load. Performance evaluations can also provide information that a written examination could not, for example, peer relationships, ability to assume more and varied responsibilities, and possession of leadership qualities and supervisory skills. Written examinations may also be appropriate for advancement to a new position requiring knowledge, skills, and abilities which differ greatly from those required at the present level. However, most promotions should be based on factors which are most likely to be measured by responsible use of performance appraisals. Reducing reliance on written promotional examinations can improve the productivity of the work force while promoting merit principles. Moreover, it would help eliminate the current examination backlog.

- Standardized objective performance appraisal ratings should be used in determining compensation. With the increased current interest in Civil Service reform, many other states are investigating the possibility of relating merit pay to performance appraisal ratings. In New York, employees belonging to one of the collective bargaining associations are evaluated and given ratings using descriptors ranging from "outstanding" to "needs substantial improvement". By receiving the top rating in two consecutive reports, the employee receives a bonus from a special award fund. In Virginia, the results of performance evaluation can advance the employee's pay up to three step increases. Other states that are considering relating pay to performance appraisal include Arizona, Arkansas, Georgia, Hawaii, Kansas, Maryland, Pennsylvania, Texas, and Washington. Wage increases for high performance on an evaluation can provide incentive for employees. We suggest that Massachusetts adopt a plan which conditions receiving an annual step increase upon continued satisfactory performance, as measured by performance appraisals. As an added incentive, outstanding performance should be rewarded by a non-cumulative bonus equal to the position's step increase differential. Even employees at the pay grade's maximum step would be eligible for such a bonus. DPA would be responsible for monitoring and enforcing rating standards to ensure that only truly outstanding performance was so rewarded, such as by limiting additional rewards to no more than ten percent of an organizational unit's employees who are not included in a career service program.

PROVISIONAL AND TEMPORARY APPOINTMENTS

Provisional and temporary appointments represent exceptions to Massachusetts' position control procedures. Position control establishes specified permanent personnel positions which are occupied (or "owned") by employees with permanent Civil Service status. A person who occupies a permanent position without having been appointed permanently to the position is referred to as a provisional or a temporary appointment. Permanent appointments are made by the appointing authority from certified lists provided by DPA, usually as a result of an examination. Temporary appointments are made to positions which the Joint Committee on Ways and Means, or the appropriate local authority, has designated as temporary rather than permanent or to permanent positions "owned" by permanent Civil Service employees who are on leave or servicing elsewhere.

Temporary appointments are made to positions that are vacant due to the extended absence of the incumbent or are to provide a particular service of only limited duration. Temporary positions may be filled provisionally or from a certified list provided by DPA, referred to as "temp after cert."

Provisional appointments are made on an entry level or promotional basis to temporary or permanent positions in the absence of a certified list of eligible candidates. All merit systems recognize the need to use provisional appointments from time to time.

Abuse of merit principles can occur when an inordinate number of provisional appointments are made which can result from an attempt by appointing authority managers to manipulate the personnel system or from DPA's inability to produce certified lists in a prompt manner. Proper public personnel management techniques and merit principles are violated when temporary positions are used to provide functions characteristically performed by permanent employees, distorting the size of the permanent labor force. In Massachusetts, temporary positions may be used in state service to avoid the legislative control associated with permanent positions.

Massachusetts Civil Service operates with one of the most extensive use of provisionals when compared to other states. There are approximately 37,000 State Civil Service positions with more than half presently filled provisionally. A sampling of several municipalities indicates that almost 15% of their official and labor service positions are filled provisionally.

Since provisional employees serve pending examination for official service positions and the issuing of a certified list of candidates, there are significant operational problems that result from the extensive use of provisionals.

PROVISIONAL AND TEMPORARY APPOINTMENTS - continued

- If an examination is given and large numbers of provisionals are displaced, there could be serious disruption to the delivery of governmental services.
- Appointing authorities have invested considerable time and funds in the training of provisional employees. If terminated because of a new certified list, resources allocated to training are lost. Job experience cannot be transferred to new appointees.
- Provisional employees have based their own personal financial planning on their current position's salary. They and their families could suffer as a result of reduced income or unemployment. Provisionals, therefore, carry a disproportionate share of the risk created by the Civil Service system's inability to provide examinations and certified lists on a timely basis.
- Women and minorities may have generally benefited from the use of provisional appointments. Their displacement from positions could be detrimental to achieving objectives of equal employment opportunity and Affirmative Action.
- Those serving provisionally in most positions are eligible for unemployment compensation. Unacceptable costs could be incurred by state and local governments if large numbers of provisional employees are terminated.
- Provisionals at entry level positions do not have Civil Service benefits, although they may be included in collective bargaining agreements. The absence of Civil Service protection from political harassment is a violation of merit principles and could result in making these appointees vulnerable to political manipulation.
- DPA currently lacks the ability to respond fully to the need for certified lists. Without changes in procedures, this inability will persist. Therefore, regardless of the disposition of current provisional employees, even if they were transformed by fiat to permanent employees, DPA would not be able presently to respond to the need to fill most subsequent vacant positions from an existing certified list. The result would be the beginning of a new round of provisional appointments.

- Provisional employees have not been "legitimatized" for their positions by passing a written examination. The strong emphasis in the Massachusetts Civil Service system on the use of written examinations as a screening device to fill positions results in provisional employees being in another "caste" from tenured employees. This can impact employee morale and peer and supervisor/subordinate relationships.
- Managers have used provisional promotions to selectively reward subordinates in a manner inconsistent with the inflexibility of existing Civil Service procedures. These managers have a vested interest in resisting re-establishment of strict adherence to procedures to determine promotion on factors other than the manager's discretion.
- Provisionals may have exercised their own initiative and political influence in obtaining positions, subverting merit principles.

In order to improve the current situation regarding the use of provisional employees and to clarify the use of temporary employees, we recommend the following administrative steps be taken:

- A detailed plan to end the extensive use of provisional appointments should be prepared by DPA for the Special Commission. DPA's plan should incorporate the recommendations included in our report. Sufficient resources should be committed by the Governor and the legislature to demonstrate the priority of substantially mitigating this condition. It is not reasonable to expect that the use of provisional appointments can be brought under greater control until procedures are in place to allow for certified lists to be established on a regular basis within the two year validity period for official service. Procedural improvements should be adopted to speed the examination process. For example, examinations may be purchased from professional testing services, although this may result in obtaining tests that conform to national, general standards rather than to particular state or local requirements.
- Each appointing authority should submit a detailed description to DPA of all its positions, including the length of time each position has been occupied by the present incumbent. Existence of all temporary positions should be explained and justified. Invalid temporary positions should be abolished.

PROVISIONAL AND TEMPORARY APPOINTMENTS - continued

- An examination date should be established for all positions as of the time they have been occupied provisionally for more than one year. Until the time that the examination is given, supervisors would be able to follow existing procedures for the termination of any provisional employee. All provisionals in the position would take an examination that would be open to the public or a closed examination, as determined by the DPA Personnel Administrator. If the incumbent received a passing grade on the examination, he or she would automatically receive permanent appointment. If the incumbent did not pass the examination, a third party, possibly a supervisor from another department, would review the on-the-job performance of the individual. This would be done by observing and interviewing the provisional employee and the supervisor. The third party would file a report as to whether or not that individual's performance warranted permanent appointment. This procedure has several advantages.
 - It allows incumbents of positions to have a very good opportunity to retain their positions on a permanent basis, avoiding problems that could be caused by disruption of service or expenses related to unemployment compensation.
 - It allows for managerial flexibility. Managers would have a period of time to take action regarding provisional employees prior to any testing.
 - Provisionals would be "legitimatized" by the examination process.
 - It is not necessary to use written examinations for all promotional appointments. Use of performance evaluations could determine promotions.
 - If a significant number of provisionals passed the examination, perhaps with high scores, it would strengthen contentions that the examinations were valid for the position. While not all provisionally appointed employees will score well on a written examination, the provisionals with satisfactory job performance should be expected to achieve high grades on tests which purport to measure qualification for the position.

Many appointing authorities favorably cite the flexibility of using provisional appointees but if provisional appointments are secured by political sponsorship, political pressures may limit the actual degree of flexibility. Moreover, there is no guarantee that provisionally

PROVISIONAL AND TEMPORARY APPOINTMENTS - continued

appointed employees will be any more productive than those appointed from a certified list. However, provisional appointments may provide greater accountability for performance based on personal sponsorship as contrasted with the anonymity of selection from a certified list.

DPA should establish resolution of the provisional situation as one of its top organizational priorities. Continued use of such a large number of provisionals is not acceptable in the context of a merit system. Moreover, there is the possibility of loss of federal funds if merit principle guidelines are not adhered to in Massachusetts.

Chapter 31, Section 1, defines tenure as the granting of full-time employment status for permanent employees following the successful completion of the probationary period or promotion to permanent position. Tenure entitles employees to rights of appeal. Tenure is not a guarantee of employment without regard to subsequent job performance or changes in local or state budget allocations.

The tenure concept was initiated to provide employees with protection against capricious actions by management, especially violations of merit motivated by political considerations. Chapter 31 includes procedural requirements that must be followed in order to abrogate individual tenure.

Tenure is one of the fundamental components of merit systems. All states provide tenure provisions as part of Civil Service administration.

Governmental managers, public employees, and taxpayers all benefit when the tenure principle is followed to assure continuity of service and the stability of a core of public administrators. Assurances of continuity in public service may, indeed, be necessary to assure creative and aggressive job performance without fear of political reprisal or sanction. It is important to consider, too, that tenure applies to supervisory personnel as well as to lower levels of the general work force. Supervisors might be less inclined to exercise managerial prerogatives if reprisals from politically well-connected subordinates could jeopardize their own job security.

Current tenure procedures provided for in the Massachusetts Civil Service do not make it impossible, although they are cumbersome and time-consuming, to remove ineffective employees. If, as some suggest, Civil Service tenure provisions were abolished, it could trigger undesirable consequences. Public opinion could decide that attempts were being made to gain political leverage over Civil Service. Collective bargaining units could try to further strengthen job security provisions of their respective agreements, perhaps further reducing managerial flexibility.

The problems relating to tenure in the administration of the Civil Service system in Massachusetts are multi-faceted. First, there is an improper perception among many appointing authority managers, elected officials, and citizens that tenure is equivalent to a lifetime employment guarantee. Such a widespread belief, irrespective of actual conditions, may in effect make it true. Second, most appointing authorities have not adopted and consistently adhered to an employee performance appraisal system that would allow them to secure the level and quality of job performance information necessary to breach tenure. The merit system requirements of objectivity and

firmness are even stronger in regard to breach of tenure. Third, collective bargaining agreement job security provisions overlap with tenure, creating confusion and forcing appointing authority managers to learn two sets of regulations to deal with employee job security questions. Many managers may not know the necessary procedures.

Tenure does not preclude the effective administration of a public personnel system but it should not be absolute and unbreachable. Causes of difficulty are related to the lack of clearly defined procedures for complying with a complex body of requirements subject to various regulations. The lack of clear procedures, including a means to document job performance over time, and uniform thorough training for supervisory staff, has made public sector managers reluctant to exercise the types of control which tend to be routine in the private sector. Without clear procedures and objectively verifiable methods for routinely evaluating performance, it becomes difficult to hold employees accountable for their performance. Consequently, managers may shy from their managerial obligations. Personnel actions which should be routine appear unique and come to require the full panoply of procedural protections which should be reserved for more exceptional actions. Thus, for example, the "preponderance of evidence" test tends to be applied to situations which probably would not warrant such stringent safeguards, if the actions were viewed as a regular part of management's duties and were supported by procedures to provide assurances of fairness and objectivity.

Seniority is related to tenure because it is a key determinant in many important personnel actions, such as lay-offs due to reduction in work force, leave, and, most often, promotion. All permanent employees are ranked based on their length of service. Seniority is computed by using the first day of the original appointment, including the probationary period.

Seniority is sometimes criticized as being discriminatory because it supports the "last hired, first fired" assumption relating to reductions in work force. Because minorities and women have made the greatest strides in securing equal employment opportunity during the last several years, they often have the least degree of seniority security. Seniority provisions, nevertheless, are included in state statute, collective bargaining agreements, and the Federal Civil Rights Act.

It is also argued that there is not necessarily a direct positive correlation between job performance and amount of time on the job. Seniority is often cited as contrary to merit principles, allowing for promotion based on length of time of service rather than on best qualifications. In the extreme case, it would be possible for a

substantially less qualified employee to receive benefit over an employee with one less day seniority. This could impact management where the benefit includes increased authority and responsibility, which the more senior employee is not qualified to exercise.

As a result of our review of the effects of tenure and seniority on the operation of the Civil Service system, we recommend that:

- Tenure should be maintained as a means to protect active use of supervisory authority from political repercussion.
- To avoid employee complacency, tenure should be clearly conditioned upon continued on-the-job performance. In addition to regular performance reviews, conducted at least every six months and tailored to individual agency and position needs, employees should undergo a special, more comprehensive review at least every five years to determine whether their job performance warrants their extended tenure. All aspects of this review, including appeal rights and sanctions, should be consistent with regular performance reviews. These periodic reviews to extend tenure require a balance between the needs of a dynamic management and obligations to a loyal, stable work force.
- In management decision-making pertaining to promotions or reduction in work force, seniority should be only one factor. Qualifications, education, ongoing job performance, compliance with equal employment opportunity objectives, and the government's long-term objectives should also be considered. Promotions should not be granted solely on the basis of seniority.

Decisions impacting tenure must be based upon adequate and supportable facts, to be reliable, a system of documentation is necessary. This requires the adoption and implementation of an equitable employee performance evaluation system. Our objective in offering these recommendations is to help establish a balance among tenure, seniority, and job performance accountability that is currently lacking.

It is commonly recognized that disciplinary actions and discharge procedures represent an area of great difference between private and public personnel systems. In the private sector, employees can be dismissed without formal procedures. As stated previously in this report, there is a common misconception that once tenured, it is virtually impossible to dismiss Civil Service employees from permanent positions. Collective bargaining can have virtually the same effect in the private sector. Private sector employers are perceived as much more efficient because of their ability to dismiss without stringent procedural constraints. There may be less need for disciplinary action, especially dismissal, because of the use of testing as an entry mechanism in Civil Service systems. Employers are ensured that entrants possess at least those minimum qualifications and knowledges, skills, and abilities specified in the announcements.

The entire disciplinary action and appeal procedure is meticulously defined within the Civil Service statute. Chapter 31 prescribes two reasons for which employees may be discharged or separated from positions. First, for just cause, where work is not being performed either through inability or unwillingness. Second, in situations where the position is abolished or funds are lacking for it. In these circumstances, statute provides for six classes of adverse actions--suspension, discharge or removal, lay off, demotion, abolition of position, and transfer.

Disciplinary and appeal procedures in Massachusetts closely correspond to those in other states. The employer must provide oral warnings and written notice to the employee, including reasons for the action, time and place of hearing, and copies of Sections 41 to 45 of Chapter 31. An employee may be suspended for five days or less without a hearing. Where a hearing is conducted by a hearing officer, a written report is transmitted to the appointing authority. The appointing authority must give the employee written notice of the decision and reasons for it. Decisions may be appealed to the Civil Service Commission. Final jurisdiction resides in the Supreme Judicial Court.

The Massachusetts Civil Service disciplinary appeal procedures also correlate closely to the newly revised federal process which resulted from the 1978 Civil Service Reform Act. Federal appeal procedures do not apply to Reductions in Force or minor disciplinary actions where the employee is suspended without pay for no more than fourteen days. In the federal system, there is a Merit Systems Protection Board responsible for hearing employee appeals.

Based on our study, we have found:

- There is a backlog of appeals which impacts the system's effectiveness. Operational and procedural problems appear primarily responsible for creation of this backlog. Statute

provides for a hearing officer to hear the case and report the findings. There is a pool of professional hearing officers responsible for hearing all appeals. Since there are no hearing officers assigned directly to the Civil Service Commission, their availability may not be sufficiently responsive to Commission needs. Consequently, hearings or reports may be delayed. In addition, the pool approach may not provide hearing officers with sufficient knowledge of Civil Service issues.

- The myth of the "invincibility of the permanent employee" is readily accepted at all levels. Supervisory personnel often believe there is no way to rid themselves of incompetents. They believe Civil Service affords protection to those who should be separated. These beliefs may effectively make the myth true.
- Appropriate sanctions have not been defined. Many appointing authorities might feel punishment is deserved but do not want to appear excessive. Rather than take severe action and risk lowered morale within their agencies, supervisors tend not to take disciplinary action.
- There is confusion about procedures to follow when employees are covered by both Civil Service and collective bargaining. Statute prohibits dual protection, but procedures are not clear as to the precise single disciplinary procedure.
- The need to show a "preponderance of evidence" places a heavy burden on the appointing authority. The need to accumulate evidence may discourage many from initiating adverse action procedures.

Disciplinary procedural requirements are consistent with those across the country. We are recommending these enhancements to facilitate the application of procedures:

- DPA should conduct hearings of disciplinary appeals which is consistent with an active personnel management role. Appeals from DPA decisions should be presented to the Civil Service Commission which should have discretion whether or not to entertain the appeal. Civil Service Commission review should be limited to questions of whether DPA rules and procedures adequately comply with Civil Service law and merit principles.

- Designate full-time hearing officers to DPA from the Division of Hearing Officers in A&F, based on determination of actual workload over time. This should provide necessary availability and should create Civil Service expertise. Full-time hearing officers will provide consistency of reporting and facilitate the equitable treatment of employees.
- A time limit of thirty days should be imposed from the date of hearing to issuance of report. Because all other steps in the procedure are time limited, it is consistent to limit this phase as well. There may be a basis for reducing time limits for all procedural steps. This recommendation is contingent upon full-time hearing officers being designated to DPA. This will aid in reducing appeal backlog and providing a timely resolution of appeals.
- Training programs and manuals oriented toward explaining Civil Service disciplinary procedures should be implemented. Too often, appeal procedures are not initiated because supervisory personnel are not familiar with procedural requirements. Training should allay any misconceptions about the invincibility of a tenured employee. While the law is strong in the protection of employee rights, the reason for the failure of disciplinary action often lies with the local administrators and appointing authorities who have not documented their cases sufficiently. The most common reason for reversal of an appeal decision is the failure of the appointing authorities to document their cases fully. Civil Service Commission decisions and the decisions of the courts form a whole body of law defining sufficient and good cause. However, statutory requirements must be followed adequately. A program sponsored by DPA could acquaint supervisory personnel with the appeal procedure. If a public personnel system's objective is to maintain competent employees, there must exist a mechanism for ridding it of incompetent ones.
- The Personnel Administrator should distribute guidelines to appointing authorities outlining the types of employee actions warranting address. Arizona has established a "laundry list" of transgressions which serves as a framework of punishable offenses. Degrees of non-conformance to certain rules and regulations should result in different managerial sanctions. Conference, formal reprimand, letter to the file, suspension, demotion, and loss of position are all typical steps in taking action against employees, reflecting the extent of deviation from expected performance. Using DPA guidelines, the appointing authorities should design their own procedures. A manual produced by DPA in 1976 partially fulfills this purpose and contains some forms and procedures.

- The respective procedural requirements and jurisdictions of Civil Service and collective bargaining should be clearly defined. The new Civil Service law should reserve exclusive domain over those areas relating to compliance with merit and should specifically designate matters subject to collective bargaining. In this way, there would be greater assurances that only a single appeal route would be available for any particular aspect of the disciplinary process.
- Change the standard of a "preponderance" of evidence to "substantial" evidence. This conforms with the new federal system.

Training is fundamental to the establishment and maintenance of a professional public personnel system. Training is especially important in a system which may limit the use of other techniques for improving productivity. Responsibility for providing "training and career development to state employees" resides in the Employee Development Bureau within DPA and applies to all levels of state employees. Diverse training programs are administered through the training and orientation subunit. Many of these are funded through the Intergovernmental Personnel Act (IPA), which makes federal funds available to initiate training programs.

Management and labor both agree on the need for effective training, which frequently is a subject of collective bargaining. The ideal training program should benefit both the individual employee and the agency/municipality. It should add to the employee's knowledge, skills, and abilities through a planned program of formalized education. It should improve employee performance on the job and keep employees abreast of any new developments in the field. Training can benefit all levels of employee and should cut across grade lines. The Commonwealth of Pennsylvania has identified the core requirements of an adequate training program as including new employee orientation, basic and advanced job training, refresher training, and functional and specialized training.

Certain operational and procedural problems obstruct Massachusetts' implementation and full use of a professional training program. From our study, we conclude:

- There is an absence of training programs devoted to total employee development. Training can address short-term needs, which will benefit employees' on-the-job performance, and long-term needs, which will contribute to employees' career growth. However, since training at the state and municipal levels must be justified in terms of current return on expenditure, more emphasis is attached to short-term training where benefits to the taxpayer are more quickly recognized, while the benefits of long-term training tend to be neglected.
- The present training program does not fully identify and utilize all forms of training available. For example, the Commonwealth may be unique because its preponderance of educational and professional organizations greatly augments the number and quality of resources available to supplement training efforts.
- There is a lack of training for supervisory personnel in employment practices and procedures. Massachusetts' overwhelming emphasis on written examinations results in employees being promoted to supervisory/managerial positions

without consideration of their suitability or qualifications for performing functions unique to such positions. Personnel management training is a necessity because of the importance attached to procedural requirements for appeal and disciplinary actions, affirmative action, and labor relations. Some supervisory training has been initiated in conjunction with local private sector firms.

- Training is still considered a non-essential service in Massachusetts. When budgetary constraints affect state and municipal governments, training is usually one of the first items to be removed from budgets. In many municipalities, the only training programs conducted are mandatory programs for public safety positions. Agencies dealing in technical areas often are viewed within their industries as technically deficient, especially with respect to developments in rapidly changing technology.
- Some existing training programs are inadequate. Police training is mandated before new recruits can fill positions. Presently a large backlog of recruits is awaiting this mandatory training before they can work, which contributes to the understaffing of some local police departments.
- There is insufficient coordination of the responsibility for identifying training needs, budgeting for training activities, and planning and scheduling the training. Training needs often are not anticipated enough in advance to be included in budget preparation and the annual request for appropriation.

We recommend:

- Massachusetts should adequately fund and implement a training program for all employees and managers which addresses both short-term training and long-term career development needs.
- Enhanced educational support should be provided, such as for completion of degree or certification programs. For limited periods, such as one school year, employees could arrange to work a reduced number of hours for a corresponding reduction in pay. In return, the employee would make a binding agreement to work for a specified period of time. The military especially has found this a valuable technique for enhancing employee skills while building a more stable work force. Additionally, low interest loans could be granted to help employees achieve personal educational objectives.

- The use of tuition reimbursement techniques should be increased at local colleges, technical and business schools, and other existing education sources. Courses resulting in increased employee productivity and skill level can be justified both in terms of taxpayer and employee benefit. Massachusetts is fortunate to have a large number of colleges and universities readily accessible to many state employees. In some cases, formal academic programs could replace or supplement more costly specialized government training, such as use of a Fire Science program as part of fire fighter training. Limitations should be imposed on the amount of total reimbursement and number of reimbursed courses during a specified time. Where appropriate, schedules should be arranged to accommodate both educational and employment requirements.
- Grant writing should be enhanced in order to secure non-local funds for programs. Available federal funds, for example, may be underutilized presently because of inadequate experience in filling out applications and forms. One approach is to offer a training course in the mechanics of grant/proposal writing for agency level personnel. This could be conducted either by an existing employee, by an expert consultant, or a federal employee who deals regularly with grant activity.
- Employee exchange programs should be developed with the private sector and within public agencies. Both public and private sector employees and managers can benefit from the others' expertise and knowledge.
- An inventory of in-house expertise should be established. By inventorying employees' professional areas of specialization and recognized achievement, potential topics and sources for training can be identified. By taking advantage of the expertise on hand, economical training may be available. Moreover, such recognition can be very rewarding to employees selected to be instructors.
- Joint programs to satisfy training needs should be co-sponsored with other organizations. For example, the Bureau of Employee Development is presenting a joint Management Development program with the Institute for Governmental Services (IGS) at the University of Massachusetts. Such a program may not have been feasible for either to conduct individually. Moreover, each sponsor's contribution of faculty and students may introduce benefits beyond the coverage which either alone could provide.

- Increased supervisory training in personnel management should be provided. Managerial/supervisory training is the most commonly cited form of training utilized by other states. The primary objective of supervisory training is to assist employees to accept increased responsibility at a time when they can have the greatest impact within the organization, especially in connection with interpersonal relationships. Supervisors should realize the ways in which personnel and related matters affect all phases of government employment. This training would best be coordinated through DPA. It should include a workshop for all new supervisors to introduce new responsibilities. Additional training sessions should be provided periodically, such as half-day workshops devoted to single sub-issues of personnel. Relevant management courses at local colleges should be encouraged.
- Existing programs should be reviewed for adequacy, especially those public safety programs where training is mandatory. Resources should be applied to eliminate existing training program waiting lists. The possibility of coursework to replace or supplement existing training along with increased reliance upon on-the-job training may help to eliminate or reduce the backlog.
- Responsibility for determining training needs should be placed at the agency level, with DPA acting as a coordinator and resource. DPA would be best suited to maintaining the inventory of in-house expertise, arranging exchanges, and providing training which crosses agency/department lines. Departmental supervisors should be primarily responsible for identifying, planning, and budgeting for training for subordinates. Supervisors can use questionnaires, performance appraisal ratings, and interviews to identify training needs. The agency should maintain a central file of future training needs consistent with meeting performance objectives.
- A program should be developed for regular evaluation of all training programs. To be successful, training must be kept current in content and consistent with changing needs. Trainees should be surveyed to evaluate training programs in terms of benefit received and contribution to potential improved performance. Managers also should evaluate the success of training programs in achieving their objectives of improved performance and broadened skills. The Commonwealth will receive training benefits proportionate to its investment in actively managing the training program.

While training is recognized as an integral part of public personnel administration, many states restrict their training schedule to classes with direct relation to on-the-job requirements. Caution must be exercised, however, that training opportunities are offered consistent with merit principles.

One of the most debated and emotion-charged features of Massachusetts Civil Service administration pertains to veterans' preference. Massachusetts and New Jersey currently are the only states in which statute provides absolute veterans' preference for all entry level positions. Absolute veterans' preference means that veterans passing a Civil Service examination are placed before non-veterans on the same certified list regardless of score. The affect of this may be to limit access to Civil Service positions, giving advantage to veterans over non-veterans. Massachusetts also provides absolute veterans' preference for all positions to be filled provisionally. There are no time constraints or frequency limitations on the exercise of veterans' preference.

Absolute veterans' preference allows for all veterans serving during periods of hostility, as identified by the State legislature, to be placed at the top of the certified list for an entry level position. Veterans with a ten percent disability have highest preference and are placed at a higher position on the certified list than non-disabled veterans. Preference provisions for entry level positions also extend to mothers and wives of deceased and disabled veterans. For promotional examinations, two points are added to the score for veterans, without additional provision for disabled veterans. The latest group of veterans affected by this preference provision served during the conflict in Southeast Asia and must have fulfilled service requirements as a member of the regular, full-time armed forces during the period from August 1964 to May 1975 (the Vietnam Era).

All states and the federal system provide some provision for veterans' preference. Arguments in support of veterans' preference point out that:

- Veterans should have such provision available to them because they have lost opportunities to establish and advance a career while serving during a period of national service.
- Veterans serving during hostilities deserve preference in obtaining public service positions as recognition of their patriotic action.
- Veterans have valuable work experience which should be recognized as beneficial to performing government service.
- There is a societal obligation to assist disabled veterans, especially in securing productive employment, because disabilities can place these veterans at a disadvantage in competing for private sector employment.

- The delivery of governmental services is not adversely impacted by veterans' preference because veterans provide a large enough "pool" from which to draw qualified public employees and is not designed to discriminate against any particular group.

Arguments against veterans' preference state that:

- Patriotism and emotionalism are used to dilute merit principles.
- Many veterans serving during periods of hostility participated in activities much like those veterans serving during peacetime.
- Absolute veterans' preference and the ten percent disability standard provide an inordinate degree of advantage to veterans in comparison to most other states and the federal merit systems.
- Veterans preference deprives other groups, especially women, who are not well-represented among veterans, of available positions in the public work force.

As a result of our analysis of Civil Service practices and procedures relating to veterans' preference, we recommend the following:

- A veterans' preference provision should be included in a revised law governing Civil Service. All merit systems contain preference provisions, most commonly pertaining to veterans. The important test for any preference provision is that it be moderate, that it not discriminate unfairly by applying to too narrow a population, and that it allows for a large enough "pool" of potential employees to permit governmental positions to be filled by qualified persons.
- The objective of veterans' preference should be to assist veterans with entry into the job market. There seems little basis for extending preference to promotional positions, and the practice should not be continued.
- Extension of preference provisions to the families of deceased or disabled veterans should be tempered to reflect the purpose the preference is to serve. For example, a desire to compensate a family's loss may not warrant a benefit in the form of absolute preference for all Civil Service positions.
- Inclusion of veterans of a future "era" for preference should pertain only to service during hostilities.

- The percentage of disability to be designated as a disabled veteran should be increased from ten percent to thirty percent, consistent with the disability standards of the federal system. The applicant should be required to present evidence from official Veterans' Administration records that such disability exists.
- Exercise of veterans' preference should be limited in time. For non-public safety positions, veterans' preference should be exercised within five years of date of discharge. Public safety positions have relatively low age limitations for applicants, providing a natural expiration. Extending the time limitations for veterans' preference would be inconsistent with the reasons for having this preference provision.
- Veterans should not receive absolute preference for Civil Service positions. It would be preferable to award additional points to veterans on written examinations for entry level positions. The number of points could be a fixed percentage of the applicant's score or of the total points available. Use of percentages will link the number of points awarded to performance on a competitive examination. Ten percent could be awarded to disabled veterans, and five percent could be awarded to other veterans.
- There should be no veterans' preference for provisional appointments.

Our recommendations regarding veterans' preference are aimed at moderating the preference provision. The present absolute nature of veterans' preference is too contrary to the principles of merit and the spirit of equal employment opportunity to continue unchanged. Moreover, veterans' preference in Massachusetts presents the state with a disproportionate share of the burden of providing benefits for an essentially federal service.

COLLECTIVE BARGAINING

Collective bargaining is a relatively recent addition to Massachusetts public personnel management. Collective bargaining was enacted with the passage of Chapter 1078 of the Acts of 1973 (Chapter 150E of the General Laws), which took effect on July 1, 1974. This statute provides that public employees have the right to organize and bargain collectively over hours, wages, conditions of employment, and standards of productivity and performance.

As a result of our review of the relationship between the Civil Service system and collective bargaining practices in Massachusetts, we conclude the following:

- Some public officials believe incorrectly that the existence of Civil Service and collective bargaining allows for "two bites of the apple," or dual sets of procedural protections for the rank and file, such as dual appeal routes. These officials do not have knowledge that Chapter 150E specifically precludes dual appeal procedures. Even though there is not a dual right of appeal, there is an overlap of jurisdictions which could permit appeals of particular matters either through Civil Service or collective bargaining channels. Moreover, the protections afforded by both Civil Service and collective bargaining are often perceived as unduly restricting the exercise of management prerogatives.
- The existence of collective bargaining in Massachusetts' governmental entities will probably continue, regardless of protests from some public administrators and private sector interest groups. The challenge to management presented by collective bargaining units is to provide governmental service within funding limits, without the disruptions caused by public employee work stoppages and strikes, and without the erosion of legitimate management prerogatives.
- Public sector collective bargaining units in Massachusetts have been strengthened by their ability to deliver tangible benefits to members. The executive and legislative branches of state and local governments have granted and funded salary increases that have sometimes out-paced increases for managerial employees. Incentives for responsible management can be diminished when management, which may not share benefits such as job security, perceives its efforts as less rewarded, both relatively and in absolute terms.
- The relationship between supervisory and rank and file personnel is not distinct. Supervisors are often members of the same collective bargaining unit as their subordinates. This situation makes it difficult for supervisors to

distinguish their position responsibilities from common union interests. Indeed, it is conceivable that supervisors' effectiveness may be compromised when they are responsible for monitoring the activities of subordinates who are officials in the same collective bargaining unit.

- Although compensation benefits for managerial personnel have not always kept pace with the benefits received by members of collective bargaining units, managerial benefits that are awarded are often based on benefits obtained through collective bargaining. This reduces the distinction between the interests of managerial employees and the rank and file.
- The very nature of certain forms of public service makes them difficult to quantify. Consequently, it is difficult to define productivity measures in the public sector whereas in the private sector productivity improvements often are bargained in exchange for worker benefits. The possibility of such bargaining is less likely in the public sector. Despite Chapter 150E's designation of standards of productivity and performance as areas of collective bargaining, collective bargaining units in Massachusetts generally have not been perceived as participants in efforts to improve productivity and the delivery of governmental services. In fact, collective bargaining units were instrumental in defeating previous attempts to implement measurement and evaluation of performance.

In order that collective bargaining and Civil Service procedures provide employee protection within the context of the judicious exercise of managerial prerogatives, we recommend the following:

- Revised legislation pertaining to Civil Service should specifically define the exclusive jurisdictions of Civil Service and collective bargaining. Appeals relevant to any particular area, therefore, would be either through Civil Service or collective bargaining channels.
- Issues negotiable in collective bargaining should relate only to compensation, conditions of employment, and levels of productivity. Standards of performance should be established by management and are not an appropriate subject of collective bargaining and should be supported by revised statute.
- There should be distinction between the benefits of managerial personnel and the rank and file. Managerial salary and other benefit increases should not be dependent upon the results of collective bargaining activities. The use of formulas based on rank and file salaries to determine managerial compensation should be discontinued. However, it is essential that a

manager's compensation provide an incentive to accept the level of responsibility, one measure of which is the compensation awarded subordinates. It is also important that managerial compensation reward performance and greater risk taking, including a lesser extent of job security. Managerial compensation should be administered by DPA or municipal authorities in accordance with a comprehensive managerial compensation plan, including integration with a career service program.

- The definition of "manager" should match that used in the private sector. Through the inclusion of the Office of Employee Relations in DPA, DPA should be given statutory authority to identify those positions which are managerial in nature and should exclude them from collective bargaining units. Municipalities should be given comparable authority.

Collective bargaining and Civil Service, can and probably will, continue to exist together in Massachusetts. We believe that this relationship will be strengthened by eliminating overlap through the clearer definition of their exclusive and respective roles. Balance must be accorded between the interests of employees and the entitlement of taxpayers to receive efficient delivery of services.

CAREER SERVICE

Professional managers recognize and rely upon certain management principles, especially:

- Employees are most rewarded by internal factors relating to a sense of accomplishment and productiveness in work performance, once basic survival needs have been satisfied.
- A manager's primary responsibility should be the development of subordinates' ability to achieve such internal rewards.
- Employees, therefore, are the chief beneficiaries of effective management.

A career service program is a technique to establish professional management competence which has been one of the components of several recent merit system reform efforts. Characteristically, a career service program allows management flexibility in assigning and rewarding staff in high level positions and provides performance accountability by evaluating program participants. A number of states have studied, proposed, or adopted career service, including California, Georgia, Indiana, Michigan, New York, North Carolina, Oregon, Washington, and Wisconsin.

The federal government has encouraged the creation of career service programs. The Federal Senior Executive Service, which permits greater flexibility for top management to assign personnel to middle and upper management positions, provides an operational model for state plans. The 1979 Federal Merit Systems Standards, the merit system operating guidelines with which state and local governments must conform, permit discretion in selection and appointment for higher level positions.

The primary objective for instituting a career service program is to increase management flexibility in making personnel appointments directly below the level of appointed department heads. This is usually accomplished by two techniques:

- Establishing a career service program covering the several highest levels of classified service.
- Increasing the number of high-level management positions in the unclassified service.

Wisconsin has created a career service program using both techniques. Kansas has not officially adopted a career service program, but it has increased the number of unclassified, confidential positions.

Career service programs operate within the framework of the merit system and should be controlled by merit principles. On the other hand, unclassified positions are not by definition within the merit system structure.

Other objectives of a career service program are:

- To develop a cadre of public administrators experienced as managers. Governmental problems are becoming increasingly complex, and there is a need to create a nucleus of motivated, technically competent managers.
- To define a distinct group that identifies with management rather than with the rank and file. The career service group should represent a management perspective regarding the efficient delivery of services.
- To provide a test group for the implementation of other innovative practices. Departmental goal-setting, performance appraisal, and merit salary plans can be tested with the career service group before more widespread application.
- To provide personal upward career mobility for creative and capable public administrators. The career service program can provide administrators with a professional advancement opportunity that does not traditionally exist in public service.
- To reduce the importance of seniority for compensation and promotions. Advancement, compensation adjustments, and recognition within the career service program are based on objectively measured job performance.

Participation in career service programs is voluntary, with management exercising acceptance or rejection of candidates or with a regular examination process to select candidates. In order to attract prospective candidates, states stress the professional challenge of the positions, the innovative nature of the program, and the greater degree of personal control over compensation.

Civil Service career service executives retain some form of job security. If they desire to withdraw, are requested to leave, or the program is terminated, they do not relinquish tenure in the system. Employees opting for career service give up their permanent positions but usually retain tenure in Civil Service.

Greater individual control over compensation may be accomplished by establishing compensation increases linked to performance and to attainment of agency objectives. Standardized appraisals generally are used to evaluate on-the-job performance. Agency objectives are established, and administrators are held accountable for attainment. Lump sum bonuses can be awarded at the end of the year or salary increases can be paid during the subsequent year. The size of the salary award varies depending on performance. No award is given unless warranted by performance, and less than adequate performance can result in removal from the career service program.

Compensation includes more than salary. Benefits other than salary are often referred to as "fringe," which is a misnomer because they constitute a substantial portion of the total compensation for employees. Retirement, insurance, sick leave, vacation, and personal days, for example, are benefits that account for approximately 25 to 35 percent of the total actual cost for maintaining a public employee in Massachusetts, depending on grade level and length of service. Enhancements to these benefits may also be used to attract personnel to career service. An extended vacation period, increased health insurance payments, or opportunity to convert a number of accumulated vacation days to cash might be offered. Benefits not enjoyed by other employees, a paid annual physical examination, for instance, might be made available. Career service executives could have some discretion to choose among various benefits other than salary to design their own benefit package. Some might elect extra vacation time in exchange for health insurance coverage provided by a working spouse, for instance. However, the primary attraction of career service must be in the work itself, its interest and importance, and in the career service professional's perception that the position offers an opportunity to be effective and contribute to improved public service.

We recommend that a career service program be implemented consistent with merit principles in Massachusetts as follows:

- Career service executives should be recruited from employees with supervisory responsibilities and whose compensation is equal to or greater than the five highest grades of Civil Service. This should encourage younger public administrators as well as the most experienced managers to participate in the program. They should have a "Career Service Executive" designation that is not associated with any existing grade. To facilitate administration, career service pay scale grades and steps should be defined.
- Initially, a pilot career service program should be tested in DPA and two other agencies. The DPA Personnel Administrator and the various secretaries should determine the number of

Career Service Executives in each agency, subject to the normal budget process, and the secretaries should personally approve selection of all applicants. Introduction to other agencies should occur over a three year period. DPA should monitor program implementation. Extension of the program should be determined by the Secretary of the Executive Office for Administration and Finance based on recommendations from the DPA Personnel Administrator.

- Input as to how a career service program should be structured should be solicited from higher level administrators. The prospects for a successful program are enhanced by their participation in the program design.
- If a career service program is adopted, it must be adequately funded. Single sum salary awards, annualized increases, training, and the creation of a standardized performance appraisal system must be funded. Without adequate allocation of funds for implementation, the program would be hollow.
- Massachusetts' commitment to a career service program should be demonstrated by an active recruitment process which should make qualified applicants aware of the program, its benefits, and the added requirements of participation.
- An orientation session should be planned to acquaint executives participating in the career service program with duties and responsibilities. Emphasis should be placed on agency and individual evaluation procedures and personal expectations.
- As much discretion as possible should be given to executives in formulating benefits packages. Input from senior officials should be helpful in determining those benefits of greatest importance. DPA should provide the allowable mix and combinations of benefits to be presented for choice.
- Municipalities should be encouraged to adopt a career service program. Municipalities should adhere to the procedures listed above, as qualified by the extent of decentralization that will be permitted by any revision of Chapter 31.
- Sufficient administrative procedures should be developed to ensure that career service is associated with superior motivation and performance, and is not subverted into a pretext for circumventing existing limitations on working conditions and compensation.

- Necessary retention of tenure must be reconciled with relinquishment of the employee's previously "owned" position, which is necessary to fill the position vacated by the employee entering career service. Tenure for career executives should apply to a grade, not to a specific position.

Many states are exploring the possibility of a career or executive service program, some modeled after the federal program. A career service program incorporates many of the attributes of the private sector to encourage productivity and accountability for performance. A career service program fulfills these objectives within the public service context, which otherwise would tend not to have sufficient flexibility to support them.

The degree of position control exercised by the Senate and House Ways and Means Committees is more extensive in Massachusetts than in any other state. It is important to understand the state budgeting process and its relation to the scheduling of positions.

In late summer, the budget requests for the next fiscal year are submitted by the agencies. "Rainbow Sheets" include agency requests for new positions as reviewed by the secretary who may make recommendations and modifications. These "Rainbow Sheets" provide the information for Ways and Means budget analysis.

In January, the Governor files a proposed budget as "House 1." This is reviewed by both branches of the legislature. The legislature attempts to determine funding need based on personal interviews, conferences and site visits. The House and Senate submit their respective budget proposals to one another and arrive at compromise. Once the budget has been established, the scheduling of positions begins. Scheduling involves assigning a pay grade which defines salary ranges to each position.

G.L. 30 Section 38 and G.L. 29 Section 6 require that the annual budget preparation indicate the number of permanent positions to be authorized. The budget states appropriated amounts in accordance with the salary rates indicated on the approved schedules. Positions are scheduled as permanent (01) or temporary (02). Each year positions may be upgraded within broad classes or individually. A new position cannot be filled until it has been scheduled within the approved budget.

The legislature transmits the approved schedule to DPA. The schedule may include legislatively recommended positions which DPA can then release to the operating agencies. DPA does not have to release these positions and because of this discretionary power, some positions exist only on the schedule.

Our findings included:

- The title and grade of positions is at the discretion of the legislature, resulting in de facto line item control which can include:
 - approval of existing or requested positions;
 - funding for positions that were not requested but which Ways and Means believes are necessary;
 - establishment of pay grade for classes of positions or individual positions whether or not requested; and
 - modification or denial of requests.

- Scheduling can be a tedious task that does not make the best use of legislative personnel and is not essential to the legislature's role in the budget process. Moreover, the Massachusetts Supreme Judicial Court has ruled that exercise of the powers to approve personnel and certain schedules and salary expenditures constitutes exercise of executive powers which it is constitutionally impermissible for the legislative branch to exercise.
- The scheduling power of the legislature presents operational problems to agencies. Delay in schedule release can seriously affect programs that are operationally dependent on the creation of new positions. Positions are established without flexibility for a full fiscal year. In order to add or adjust positions during the fiscal year, the agency must obtain Ways and Means' approval, based on their judgment of agency needs. This restricts agency flexibility in responding to changing programmatic needs during the year.

In keeping with the concept of managerial flexibility, while realizing the importance of checks and balances, we recommend:

- The legislature's control should be limited to approving or disapproving the funding of positions at specified pay grades. In accordance with its management responsibilities for classification and personnel administration, DPA should perform all assignment of positions to the salary schedule. This fiscal control is consistent with practices in other states and with maintenance of checks and balances. The legislature will retain final position control through the appropriation power to fund requests without becoming embroiled in the administrative detail of position scheduling. Salary administration is a part of personnel administration and most appropriately should be included within the professional personnel management responsibilities of DPA. Maintenance of position classification and salary should be the responsibility of the agencies under the supervision of DPA. This is consistent with merit and sound management principles and would free legislative resources for more appropriate legislative activities.

Of the fifty states, Massachusetts and New Jersey are alone in extending jurisdiction of the merit systems to the municipal levels. Many of our recommendations are suggested in the interest of placing responsibility and authority for personnel functions to the levels most capable of addressing them, the municipalities and state agencies.

Increasing local control involves two separate but interrelated issues, decentralization and delegation. Decentralization refers to total local control over personnel functions without being subject to DPA's direction. Certain town governments are currently exempt from Civil Service. However, all public personnel functions must conform to merit guidelines. Many municipalities express an interest in more decentralized control over personnel activities, primarily because of dissatisfaction with the speed and quality of DPA services.

The terms delegation and decentralization tend to be used interchangeably. However, the two refer to separate concepts and apply to different governmental jurisdictions. Delegation only pertains to municipalities and is defined by statute. Decentralization is an operational term referring to the placement of personnel functions and refers to state agencies only.

Statute presently allows the personnel administrator to delegate the administration of Civil Service functions to cities and towns. Delegation was initially intended to provide greater local participation in the personnel function, thereby improving the efficiency, effectiveness, and responsiveness of the Civil Service system. Statutory amendments resulting from the 1967 Special Commission's efforts indicated a shift from centralized personnel administration to "Home Rule" participation. This was a move toward increased attention to local requirements for personnel administration.

Delegation provides a wide variety of options for municipalities. Its dynamic nature allows each municipality to adapt personnel functions to unique local circumstances. However, the concept of delegation is limited:

- Delegation does not remove municipalities from DPA control.
- The Personnel Administrator may delegate only those functions prescribed by statute to the Personnel Administrator.
- The municipality must carry out the functions precisely as stated.
- Practices must comply with merit and statutory requirements.

As a result of our study, including a survey of local governmental entities we conclude:

- Cost and lack of qualified personnel were primary reasons cited for not pursuing delegation or decentralization. It is difficult to assess the exact cost of delegation to a community. Some of the variables affecting cost include the size of the covered work force, the existing personnel structure's ability to accomodate the new responsibilities, and local acceptance and commitment to the concept of delegation. Many local governments lack a structure for personnel administration. While many larger communities have positions with exclusive personnel responsibility, there are current efforts to permit smaller communities to include personnel administration as one of a key administrator's several responsibilities. However, designation of personnel administration positions may not be sufficient to provide municipalities the specialized expertise necessary for adequate performance of personnel functions.
- The scope and the needs of each community are unique. An aspect of "Home Rule" which is attractive is that it can allow the community to recognize and accomodate these differences. The municipalities choose a suitable personnel approach from a number of alternatives.
- Test administration is perhaps the most important issue in the Massachusetts Civil Service system. Timely and responsive certification of lists, as a result of test administration, is the primary objective of those seeking greater control. Were DPA more responsive in this area, there would be less interest in delegation and decentralization.
- Greater local responsibility for personnel administration will not necessarily result in improved personnel administration. The current interest in greater local responsibility extends largely from frustration with DPA's performance without a sufficient local understanding of the requirements to adopt management of a comprehensive personnel function. It may be that many local bodies could not justify expenditures necessary to acquire sufficient expertise and administrative resources to satisfy the requirements of merit and Civil Service.

Our recommendations embody the recognition that decentralization/delegation should be selective with respect to the agency/municipality's ability to perform particular functions. We recommend:

- Statute should provide that upon request or its own initiative, the Personnel Administrator should have the jurisdiction to delegate or decentralize prescribed functions to local governments or to agencies.
- Communities choosing greater responsibility for the personnel function should enact comprehensive personnel by-laws or ordinances that will provide the legal framework for all personnel policies and procedures, including merit standards and provisions for all personnel-related issues such as recruitment, selection, training, appeals, and affirmative action. The community should demonstrate a commitment of resources sufficient to comply with its undertaking. The Civil Service Commission should review and approve the adequacy of the local plans to assume functions performed by DPA.
- DPA should serve as a resource, convener and coordinator. For example, DPA should provide technical expertise as required by local governments or agencies. In addition, DPA should have responsibility for disseminating information regarding personnel management.
- Certain entry level examinations, such as those for local public safety positions should be administered centrally by DPA in the interest of cost savings, irrespective of the community's participation in other personnel functions.
- Because of the special expertise and extensive resources required, DPA should continue to have primary responsibility for constructing and administering Civil Service examinations. Central administration of written examinations tends to be the most cost-effective technique for screening applicants. Municipalities should be permitted to acquire and administer examinations on their own, so long as they comply with merit requirements.
- DPA should establish sufficient audit capability to monitor decentralized delegated compliance to the law. Communities would be required to have periodic performance audits at regularly scheduled intervals. DPA would perform these audits with the cost reimbursed by the municipality. If DPA does not have adequate resources in-house to perform audits and is not given additional resources, DPA should authorize private firms to contract with the municipalities. This cost would also be paid by the municipalities. It is, therefore, in the municipalities' best interest to maintain systems with proper recordkeeping. By following sound personnel practices,

potential audit and compliance costs will be reduced. There should be strong penalties for non-compliance, including fines, rescinding of personnel function privileges or the withholding of state revenue until compliance. Any costs incurred because of non-compliance should borne by the municipality.

The trend in other states is toward decentralization of functions from the central state agency. At the local level, Massachusetts should provide enough options for the municipalities to choose a suitable system. Providing the municipalities this latitude creates a cooperative atmosphere conducive to more effective personnel administration.

Civil Service provides guidelines for personnel administration. Procedures are established which are expected to assure compliance with merit principles. Effective personnel administration in turn provides a means for monitoring and controlling compliance.

An essential element of Civil Service is an attempt to objectively separate personal considerations from complex decision-making about the highly personal matter of an individual's career. To promote objectivity, Civil Service has come to rely upon impersonal tools such as examinations.

It has long been recognized that examinations alone are insufficient for effective administration of a merit-based, personnel system. Examinations cannot test all relevant factors as frequently, accurately, fully, or economically as personnel administration requires.

Personnel systems must be able to take other relevant factors into account. Civil Service's aim is to ensure that such other factors are handled as fairly and objectively as possible. Toward this end, primarily factual aspects of employee history have been incorporated in Civil Service decision-making. For example, years of experience in a particular position may be a requirement for promotion to a higher, related position. Similarly, evidence of educational attainment, licensing, or registration may be a suitably impersonal requirement.

Consequently, Civil Service has a need for the public personnel system to provide such primarily factual information. The system must be able to provide reasonable assurances that such data are accurate, timely, and complete. When the personnel system is perceived as meeting such data standards, the Civil Service system's use of the data is generally considered acceptable. To the extent the personnel system is perceived as capable of maintaining rudimentary non-judgmental records, Civil Service's credibility is enhanced.

A labor-intensive organization, such as government, can benefit greatly from effective personnel administration. However, such a large and complex organization needs more sophisticated personnel decision-making than can be afforded by examination scores and employment history alone. Additional data and analysis flexibility are required. The personnel system must be able to support such data needs. Moreover, to be consistent with merit principles, the system must provide assurances of fairness and objectivity, even for seemingly subjective data.

Routine, externally observable adherence to regular procedures tends to add credence to data. Collecting data in a standard, replicable manner often creates reliability. Repeated use of routine procedures, therefore, can act as a safeguard of the principles Civil Service promotes, even though the data itself under other circumstances might not be considered objective. For example, the system of administration can lend objectivity to the very subjective process of evaluating employee performance.

A considerable degree of effort is needed to administer a sophisticated personnel system, especially one which meets Civil Service's stringent requirements. A system's functioning must be perceived as providing necessary internal safeguards in order for it to be accepted as a fair basis for sophisticated personnel decisions. Without operational credibility, a personnel system may be perceived as subject to abuse. However, a credible operating personnel system can be of tremendous value as a tool for efficient management of personnel, government's greatest resource.

DPA is responsible for administering Civil Service in conjunction with the Massachusetts public personnel system, which includes more than 80,000 employees. DPA's administration of the public personnel system is in addition to and separate from its administration of Civil Service examinations and certifications. DPA's public personnel system administration emphasizes the following functions:

- Position control.
- Basic personnel data.
- Personnel transaction history.
- Equal Employment Opportunity and other reporting.

Position control refers to the technique of authorizing specific positions by grade and title. Through complex procedures, DPA tries to ensure that employees occupy only authorized positions. With position control, an employee is considered to "own" the particular job. An employee usually relinquishes control only when leaving public service or taking "ownership" of another position. This entitlement to a particular position survives an employee's temporary filling of a different position. Temporary appointments often are used to reward employees beyond the salary limits of their permanent positions. Excessive use of temporary appointments can result in a very confusing personnel structure.

DPA maintains certain basic data about public employees. Much of this data is interrelated with payroll requirements. For example, date of hire is important to many personnel events, including seniority and retirement, but date of hire also indicates the starting point for calculating payroll accrual.

DPA maintains historical records of all personnel transactions affecting employees. Examples of personnel transactions include hiring, promotion, and salary increase. Typically, several records are added each year for each employee.

From the accumulated data, DPA prepares voluminous reports about public personnel. In recent years, requirements have increased for reports related to Equal Employment Opportunity. Although much personnel reporting is for internal management purposes, a large amount is to meet external requirements.

It would not be feasible for DPA to maintain the necessary volumes of personnel data and to fulfill various reporting requirements without heavy reliance on large-scale data processing systems. DPA is one of the largest users of the A&F data center. However, DPA's automated personnel systems have the following limitations:

- The system includes relatively few data elements which would be necessary for more active personnel management.
- DPA has been unable to keep the system current with respect to negotiated salary scales, thereby limiting the data's usefulness for financial purposes.
- System operations, especially with respect to data entry, are cumbersome and susceptible to errors.
- Agencies supply data to DPA often of questionable quality in an untimely manner.

As a result of these largely operational limitations in DPA's processing of basic personnel data, DPA tends to lack certain credibility essential for effectively serving Civil Service. Moreover, despite large expenditures for personnel data processing, the state tends not to receive the level of personnel management information which would be beneficial. We recommend that the state:

- Restructure its priorities to acknowledge and enforce the important role of personnel administration. As a practical matter, this would necessitate involvement of DPA prior to effecting payroll changes. Only by conditioning payroll actions upon DPA's involvement can DPA be ensured of timely, accurate, and comprehensive data.
- Develop and implement a comprehensive, operationally manageable automated personnel system to replace the present system. The system should

- fully edit all data interactively through on-line terminals;
- include all data relevant to management decision-making especially timely financial data;
- interface with Civil Service data, such as
 - veterans status,
 - verified employment history,
 - examination history and scores,
 - skills inventory, and
 - training and experience evaluations;
- incorporate actual salary expenditure data; and
- allow flexible modification, inquiry, and report generation.

With sufficient procedures to ensure DPA's timely receipt and prompt, accurate processing of high quality data, the public personnel system could begin to build the type of data base necessary for supporting sophisticated personnel management. At the same time, such procedures could provide the credibility necessary for successful administration within a merit system.

